

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)

FAITH UNITED MISSIONARY)
BAPTIST CHURCH,)

complainant,)

VS.)

No. 02-0265

PEOPLES GAS LIGHT and)
COKE COMPANY,)

respondent.)

Complaint as to disputing)
erroneous gas bill in)
Chicago, Illinois.)

Chicago, Illinois
November 14, 2002

Met, pursuant to adjournment, at 10:00 a.m.

BEFORE :

Mr. John Riley, Administrative Law Judge

APPEARANCES:

MR. WILLIAM E. BROOKS
11 East Adams
Suite 902
Chicago, Illinois 60603
appearing for complainant;

1 APPEARANCES (cont.):

2 MR. BRIAN MCCARTHY
3 130 East Randolph Drive
4 23rd Floor
5 Chicago, Illinois 60601
6 appearing for respondent.

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1	<u>I N D E X</u>					
2				Re-	Re-	By
3	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>direct</u>	<u>cross</u>	<u>Examiner</u>
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1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 02-0265. This is a complaint by the Faith United
4 Missionary Baptist Church versus Peoples Gas
5 Light and Coke Company with regard to disputing
6 erroneous gas bill in Chicago, Illinois.

7 And would counsel for the complainant
8 please enter an appearance, verbal appearance for
9 the record, please.

10 MR. BROOKS: William E. Brooks, 11 East Adams,
11 Suite 902, Chicago, Illinois, 60603.

12 JUDGE RILEY: And for Peoples Gas.

13 MR. MCCARTHY: Brian McCarthy for the
14 respondent, the Peoples Gas Light and Coke
15 Company, 130 East Randolph Drive, Chicago,
16 Illinois, 60601.

17 JUDGE RILEY: Okay. And, Mr. Brooks, just so
18 you know, the procedure in this matter is that at
19 the completion of the hearing, I am eventually
20 going to issue a proposed order that is going to
21 be adverse to one party or the other. The
22 proposed order will only be sent to the people

1 who are on the service list, and you get on the
2 service list by filing an appearance with the
3 Clerk's Office. I urge you to file that
4 appearance because I checked the E-docket again
5 this morning, and your name wasn't on there.

6 MR. BROOKS: Well, I'll at least give you --
7 okay. Now, that has to be sent to Springfield,
8 right, as I understand it?

9 JUDGE RILEY: Right. It has to go to the
10 Clerk's Office in Springfield.

11 MR. BROOKS: I thought I could bring it here.

12 JUDGE RILEY: No, no.

13 MR. BROOKS: I knew you wanted it for
14 discovery purposes, you know, but when I found
15 out that they had kept such intricate records
16 there, I didn't --

17 JUDGE RILEY: The thing is, all the things
18 that are of public record in this hearing that
19 are filed with the Clerk, that's what gives you
20 access is your appearance to it.

21 MR. BROOKS: All right. I'll do that.

22 JUDGE RILEY: That will be the proposed order.

1 Okay.

2 I presume that the parties have
3 completed all the discovery, you know, pursuant
4 to the schedule that we set at the last status
5 session and that we are going to go to hearing
6 this morning.

7 Mr. Brooks, I'm going to throw the ball
8 to you as the complainant's counsel and ask you,
9 do you want to call your first witness, or did
10 you have anything that you wanted to deal with
11 prior?

12 MR. BROOKS: I wanted to start with a
13 statement, and that is that there has been
14 discussion regarding this complaint. After much
15 deliberation and even speaking with the officials
16 of the Peoples Energy Corporation, we do agree
17 and admit that we owe something in the area of
18 maybe \$4,000 in gas usage not including interest.

19 And I think basically this is a problem
20 of mathematics more than it is anything else
21 meaning that if you added the interest, which is
22 somewhere in the area of \$2,500, something like

1 that, that if you arrived at an amount in the
2 area between, say, maybe 6,500 or \$7,000, that
3 would be a more equitable and feasible amount
4 that could be worked with, and the complainants
5 could try to get that in a relatively short time.

6 They definitely don't want to be closed.
7 They are a church. They've been in this location
8 for nearly three years. This is a gas bill, and
9 I think the facts will show that based upon our
10 analysis of all of the figures, that in the three
11 years if you took all of the average usage for
12 every single month over the course of that little
13 over two and a half years, close to three years,
14 they could have possibly only used, even with the
15 new meter that was installed since the complaint,
16 maybe 45 to \$5,000 worth of gas. But here we're
17 talking about a gas bill of \$17,000, a very
18 little church but unfortunately a church with a
19 lot of space.

20 And I think the space is a little
21 unrealistic in terms of maybe in spaces of this
22 kind there may be a lot of gas usage if you had,

1 say, usage every day. But we're talking about
2 somebody who uses the church or these premises
3 maybe three times a week at the most.

4 Unfortunately the place was vacant for a
5 long time and maybe therein lies the problem.

6 And it becomes then more of a community problem,
7 maybe something that could be addressed by having
8 vacant buildings and then when you have somebody
9 who does occupy the building and does try to make
10 payments, maybe some equity can be seen or shown
11 by way that some of that bill could be not as
12 high.

13 And so therefore we ask that this body
14 will note our analysis which came from the
15 church. I think I gave a copy to counsel. I
16 would be glad to have another one for the Hearing
17 Officer and anybody else that would like to have
18 it. But in no way could it come to that amount.

19 And for that reason we're asking this
20 body to enter an order close to an amount that we
21 think is fair, somewhere in the area of maybe
22 \$4,000. The average that we had come to in terms

1 of our gas bill analysis is \$4,732.05.

2 We want to pay our bill. We are a
3 church. We are incorporated in the State of
4 Illinois, and we want to do our duty. But
5 there's no way that this congregation can stay in
6 existence at this location if the 17,000 --
7 slightly over 17,000 is so promulgated as being
8 the amount that this respondent, the Peoples
9 Energy, is trying to collect.

10 I would like to call as my first
11 witness, the Reverend Samuel Ballard.

12 JUDGE RILEY: Before we deal with that,
13 Mr. McCarthy, did you have any opening remarks?

14 MR. MCCARTHY: You know, I guess I can make
15 them before I go.

16 JUDGE RILEY: In your case in chief? All
17 right.

18 MR. MCCARTHY: Yeah. And I guess just one
19 clarification. He's referred to Peoples Energy
20 Corporation. The respondent in this case is the
21 Peoples Gas Light and Coke Company which is the
22 utility service.

1 MR. BROOKS: Sorry.

2 MR. MCCARTHY: Just so it's on the record.

3 (Witness affirmed.)

4 REVEREND SAMUEL BALLARD,

5 called as a witness herein, having been affirmed,

6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY

9 MR. BROOKS:

10 Q. State your name for the record, please.

11 A. Reverend Samuel Ballard.

12 Q. And your address, Mr. Ballard.

13 A. 5100 West Crystal.

14 Q. Mr. Ballard, are you married?

15 A. Yes, I am.

16 Q. Any children?

17 A. Four.

18 Q. Okay. And are you employed?

19 A. I'm the pastor of the church.

20 Q. Okay. What's the name of that church?

21 A. Faith United Missionary Baptist Church.

22 Q. And where is it located?

1 A. 120 East 115th Street.

2 Q. Now, how long have you been the pastor?

3 A. I've been the pastor since we organized,

4 about 13 years.

5 Q. Okay. And is the church chartered?

6 A. It is.

7 Q. That's in the State of Illinois?

8 A. It is.

9 Q. And is it in good standing?

10 A. It is.

11 Q. And do you have a tax exemption for the

12 property where the church is located?

13 A. We do.

14 Q. And what is the address of the church?

15 A. The address of the church is 120 East

16 115th Street.

17 Q. Is that the City of Chicago, County of

18 Cook, State of Illinois?

19 A. It is.

20 Q. And is that also the place for which the

21 gas bill dispute is before this body? Is that

22 the address where all of this takes place? Is

1 that the address of the church --

2 A. It is.

3 Q. -- where the gas is charged?

4 A. Right, right.

5 Q. Has the church paid for the gas, or who

6 pays for the gas at this place?

7 A. The church.

8 Q. Okay. And are there members of the church

9 gathered here today before us who have come to

10 give support?

11 A. It is.

12 Q. Okay. When did you move into the premises

13 commonly known as 120 East 115th Street, Chicago,

14 Illinois; that is, when did Faith United

15 Missionary Baptist Church move into the premises?

16 A. What was that? March --

17 MRS. BALLARD: August the 24th.

18 THE WITNESS: August the 24th.

19 MR. BROOKS: Q Okay. What year was that?

20 A. 1998.

21 Q. Do you remember when you got your first

22 gas bill?

1 A. Okay. The first gas bill was in December.

2 Q. Okay. So for the months of September,
3 October, November you did not receive a gas bill;
4 is that correct?

5 A. Right.

6 Q. Okay. And how often did the church use
7 the premises during those months from August
8 through December when you first got your first
9 gas bill?

10 A. Well, we was mostly cleaning up. We was
11 not really in the church. We was cleaning the
12 place up.

13 Q. On an average, how many days a week did
14 you actually come to the church during the months
15 of August through December of 1998?

16 A. We was there two, three days.

17 Q. Okay. And how many hours would you
18 usually be there?

19 A. Anywhere from five to six hours.

20 Q. Okay. And you stated in your complaint
21 that you received a new gas meter sometime
22 subsequent to August of 1998; is that correct?

1 A. In '98.

2 Q. When did you receive your gas meter?

3 A. We received the gas meter in 2000.

4 JUDGE RILEY: I'm going to have to interject

5 here. Mrs. Ballard, only one person can testify.

6 Counsel, I don't have any objection to

7 her conferring with you.

8 MR. BROOKS: Okay.

9 THE WITNESS: Okay.

10 JUDGE RILEY: Although I don't even know if

11 that's proper.

12 MR. BROOKS: We can make this real short.

13 JUDGE RILEY: Okay.

14 MR. BROOKS: Q If you don't know, just say

15 you don't know.

16 A. Okay. She's more familiar than I am.

17 JUDGE RILEY: Let me go back to one thing,

18 back to the beginning as a matter of fact. When

19 did you say that the church moved into the

20 present location? Was that in 1990?

21 THE WITNESS: 1998.

22 JUDGE RILEY: 1998. Thank you.

1 MR. BROOKS: August -- okay. I'll ask
2 Mrs. Ballard.

3 Q. Let's see. Since your having moved in the
4 church, have the activities remained the same
5 over the course of these three -- roughly two and
6 a half to three years?

7 A. Pretty much.

8 Q. Could you tell us what is usually done as
9 a church activity in the church on a Monday?

10 A. On a Monday, we pick up food on Monday.

11 Q. So you occupy the church building about
12 how many hours?

13 A. About four or five hours.

14 Q. Okay. How about Tuesday?

15 A. Tuesday, we pass out food.

16 Q. Okay. And how many hours do you occupy
17 the church then?

18 A. We are there from 9:30 until about 4:00.

19 Q. So that's roughly eight hours on a
20 Tuesday; is that correct?

21 A. Yes.

22 Q. And how about on a Wednesday?

1 A. No. We're not there on Wednesday.

2 Q. Okay. Thursday?

3 A. We are there on Thursday during the

4 summertime. We have Bible class.

5 Q. Not there during the winter?

6 A. No.

7 Q. What about Friday?

8 A. No.

9 Q. How about Saturday?

10 A. Sometimes on Saturday we go to clean up

11 for Sunday.

12 Q. And that's generally two hours, three

13 hours, four hours on a Saturday?

14 A. Couple hours on a Saturday.

15 Q. Four? Three?

16 A. Two.

17 Q. And Sunday, how long is the premises

18 occupied?

19 A. Sunday we are there from 9:00 o'clock to

20 about 4:00 when we have evening classes. We have

21 evening classes two Sundays out of a month.

22 Other times we're there until about 2:30 on

1 Sunday.

2 Q. So Sunday it's an average of about eight
3 hours also; is that correct?

4 A. Somewhere in there, yes.

5 Q. Now, when you began to receive your gas
6 bill, what was the amount of the gas bill --
7 first gas bill that you received, do you
8 remember?

9 A. Now, can I have her answer the question?

10 Q. Okay. I'll ask her that.

11 A. If you would.

12 Q. You noticed a peculiar difference in your
13 gas bill on or after December of 1998; is that
14 correct? In other words, the gas bill went
15 extremely high; is that correct?

16 A. Yes, yes.

17 MR. BROOKS: If I may, with the consent of
18 counsel, ask one leading question which is very
19 well known, if I may?

20 MR. MCCARTHY: Well, I would have to hear it.

21 MR. BROOKS: Okay.

22 Q. Was the first peculiar bill at or about

1 \$18,560.07; do you remember that amount?

2 A. Uh-huh.

3 Q. And this was for an arrearage; is that

4 correct?

5 A. Say that again.

6 Q. That was for an arrearage; that is, a gas

7 bill that was owed in the past?

8 A. Right.

9 (Whereupon, Complainant's

10 Exhibit A was marked for

11 identification.)

12 MR. BROOKS: Q Okay. Now, I'm going to

13 show you what is marked as Complainant's Exhibit

14 A for identification purposes and ask you, are

15 you familiar with this?

16 MR. MCCARTHY: I have seen it.

17 JUDGE RILEY: Is that the one right there?

18 MR. MCCARTHY: Yeah.

19 JUDGE RILEY: Let me see it.

20 MR. MCCARTHY: I'm assuming he's offering this

21 just for questioning.

22 MR. BROOKS: Yes.

1 MR. McCARTHY: And for identification; is that
2 right?

3 MR. BROOKS: Yes.

4 Q. All right. Are you familiar with this
5 document that I am tendering to you?

6 A. Uh-huh, yes.

7 Q. This is the Gas Bill Analysis for the
8 years 1998, '99, 2000, 2001 and 2002; is that
9 correct?

10 A. Right.

11 Q. And there are some months that are not
12 shown, but it is accurate for the amounts that
13 are shown; is that correct?

14 A. In here.

15 Q. It's accurate for the amounts that are
16 shown?

17 A. Yes, yes.

18 Q. Okay. And it's based upon the gas bill
19 amounts on the date of the gas bills that you
20 received; is that correct?

21 A. Uh-huh, yes.

22 Q. Okay. Now, do you remember in your mind

1 all of the specific amounts every month that you
2 received for the gas bills that were sent by
3 Peoples Light and Gas Company?

4 A. Not exactly.

5 Q. Okay. And because we're talking about so
6 many amounts, are you saying that your memory of
7 the specific amounts are exhausted and you do
8 need the assistance of some documents to refresh
9 your memory?

10 A. Exactly.

11 MR. BROOKS: Okay. So having established that
12 his past memory has been exhausted, I'm asking,
13 for purpose of the hearing, that he be allowed to
14 see the documents in order for his memory to be
15 refreshed.

16 JUDGE RILEY: And that's what you have
17 referred to as Gas Bill -- Gas Bill Analysis,
18 Complainant's Exhibit A?

19 MR. BROOKS: Yeah, that's correct.

20 JUDGE RILEY: Just let me ask, who prepared
21 this document, Reverend?

22 THE WITNESS: We did.

1 JUDGE RILEY: You and Mrs. Ballard?

2 THE WITNESS: Right.

3 JUDGE RILEY: And what was it prepared from?

4 What did you use to prepare it?

5 THE WITNESS: The gas bill.

6 JUDGE RILEY: These were the actual gas bills

7 that you received from the Peoples Gas Light and

8 Coke Company?

9 THE WITNESS: Yes, sir.

10 JUDGE RILEY: The numbers were taken off the

11 gas bills and put right on here for, like,

12 January of 2000, June of 2001, that kind of

13 thing?

14 THE WITNESS: Right.

15 JUDGE RILEY: And the sums that are reflected

16 on here, are these the actual amounts due as

17 reflected on those gas bills?

18 THE WITNESS: Are these --

19 JUDGE RILEY: In other words, let me

20 specifically point to January 2000. It says

21 \$413.22.

22 THE WITNESS: January 2000. 413.22.

1 JUDGE RILEY: And would that have been the
2 amount that was on the gas bill that said Amount
3 Due? In other words, there are a number of
4 figures that appear on a gas bill.

5 THE WITNESS: I think this would be the amount
6 due; is that right?

7 JUDGE RILEY: You've got January of 2000
8 there; take a look.

9 THE WITNESS: Exactly.

10 JUDGE RILEY: Okay. And it's my understanding
11 then that all of the figures that appear on this
12 sheet are the amounts due for that particular
13 month that were taken off the gas bills?

14 THE WITNESS: Yes.

15 JUDGE RILEY: Okay. And I note that there are
16 some handwritten figures over in the far right
17 column that's headed Average. Is that your
18 handwriting?

19 MR. BROOKS: That's my handwriting.

20 JUDGE RILEY: I'm sorry, Counsel.

21 THE WITNESS: No, it's not.

22 JUDGE RILEY: Reverend Ballard, are you saying

1 that's your attorney's handwriting?

2 THE WITNESS: It is.

3 JUDGE RILEY: Okay. All right. Please go
4 ahead.

5 MR. BROOKS: Q Now, Reverend, I show you what
6 has been marked as People's Exhibit -- I mean, as
7 Complainant's Exhibit A for identification
8 purposes.

9 Now, are you familiar with this
10 document?

11 A. I am.

12 Q. What is this document?

13 A. This is a document of the Gas Bill
14 Analysis.

15 Q. Okay. Now, during the month of January
16 from 2000 to 2002, the amounts have been in
17 various amounts; is that correct? The January
18 gas bill reflected \$413.22. The 2001 gas bill
19 for January was \$1,176.20. And this past
20 January, 2002, the amount was \$1,317.20.

21 Are you familiar with those numbers?

22 A. Right.

1 Q. And an analysis has been made for all of
2 the amounts from January through December; is
3 that correct?

4 A. Right.

5 Q. And the gas bills have ranged anywhere
6 from a high of \$1,317.20 -- this is for current
7 gas usage -- to a low of \$56 and -- excuse me --
8 to a low of \$48.21 for gas usage since the
9 installation of a meter; is that correct?

10 No, no. Since the installation of a gas
11 meter; is that correct? Is that correct?

12 A. Since the -- I'm trying to -- yes. Okay.
13 Right.

14 Q. Now, using the analysis that has been
15 presented to you from December 1998 through May
16 of 2001, there was a gas usage reflected from the
17 bills in considering the installation of a gas
18 meter in the amount \$9,884.77; is that correct?

19 A. Uh-huh.

20 Q. And then from December 1998 through May
21 2002, there is a total of \$15,345.32; is that
22 correct?

1 A. Right.

2 Q. Now, taking an average, the averages for
3 gas usage during the months that you have been
4 the pastor and the church has occupied the
5 premises, if you total the averages for the
6 entire year, you have an average of \$4,732.02; is
7 that correct?

8 A. Right.

9 Q. And this would mean that your average gas
10 bill is \$394.33; is that correct?

11 A. That's right.

12 Q. Now, other than the heavy winter months
13 that are reflected in the analysis, your gas bill
14 seldom ever exceeds more than \$394.33; is that
15 correct?

16 A. Right.

17 Q. Okay. Now, are you stating to this body
18 that the estimated amounts that have been
19 computed are in dispute with the amounts that you
20 have here?

21 A. Repeat that.

22 Q. Okay. Are you disputing the amounts that

1 the Peoples Gas Company are saying that you owe?

2 A. I am.

3 Q. Okay. And how much do you think that you
4 owe the Peoples Gas Company in terms of usage for
5 the premises commonly known as 120 East
6 115th Street, Chicago, Illinois?

7 A. No more than 4,000 or \$4,500.

8 Q. Now, this is talking in terms of gas usage
9 itself; is that correct?

10 A. Right.

11 Q. Okay. And you do take into consideration
12 or you do make note to this Commission that there
13 may be some additional amounts for late charges,
14 penalties or interest; is that correct?

15 A. Possibly, yes.

16 MR. BROOKS: I'm finished with the pastor. I
17 will ask Mrs. Ballard at some point.

18 JUDGE RILEY: Okay. Did you want to formally
19 move for the admission of Complainant's Exhibit A
20 into evidence?

21 MR. BROOKS: Yes, I do. We formally so move.

22 JUDGE RILEY: All right. Mr. McCarthy, what

1 is the respondent's response?

2 MR. MCCARTHY: Well, I object. It's hearsay,
3 and it contains -- frankly contains some patent
4 flaws on its face, one of which is there's two
5 Decembers listed on the document. There's 13
6 months recorded here.

7 I don't know where -- I've looked at our
8 records, and I'm not sure where these things come
9 from and how you could have two different
10 Decembers for '98 and 2001. They've got two
11 different bills.

12 I guess my standing objection is that
13 it's hearsay in that there's nothing in this that
14 makes it fit into any hearsay exceptions.
15 There's no --

16 JUDGE RILEY: Okay. Counsel, what will your
17 response be to the hearsay objection?

18 MR. BROOKS: I would take exception. The
19 353.99 was a deposit. They made her --

20 JUDGE RILEY: See, the thing is, is that when
21 we get into that, that has to be testimony.

22 MR. BROOKS: Okay. Yes. If I may --

1 JUDGE RILEY: You want to recall Mr. Ballard?

2 MR. BROOKS: I'll make a point of

3 clarification through the calling of the

4 complainant, another complainant.

5 JUDGE RILEY: Okay. Why don't we do this?

6 Why don't I just hold the ruling in abeyance on

7 this until you've completely qualified the

8 document. You may need to have to call another

9 witness to do that then.

10 MR. McCARTHY: That's fine.

11 JUDGE RILEY: At this time then I'm going to

12 tender Reverend Ballard for cross-examination.

13 MR. McCARTHY: Okay.

14 JUDGE RILEY: Before we call any more

15 witnesses.

16 MR. McCARTHY: Right.

17 CROSS-EXAMINATION

18 BY

19 MR. McCARTHY:

20 Q. Reverend Ballard, this building is large,

21 isn't it?

22 A. It is.

1 MR. McCARTHY: And it has -- actually it looks
2 like you guys have a map of the building.

3 Were you planning on admitting that at
4 some point?

5 MR. BROOKS: Yes, I was.

6 (Whereupon, Complainant's
7 Exhibit B was marked for
8 identification.)

9 MR. McCARTHY: That would be -- if I may
10 look at that for a moment. Thanks.

11 Q. It's my understanding that this building
12 takes up most of a block?

13 A. Somewhat there.

14 Q. And it has three main areas, right? It
15 has sort of a studio area? Let me see how you
16 guys described it before.

17 A. Uh-huh.

18 Q. It does have three main areas?

19 A. Yes.

20 Q. And it has a studio. I guess it's listed,
21 the address, 116 through 118 and then a sanctuary
22 at 120?

1 A. Right.

2 Q. And then a fellowship hall. I don't know

3 what the address is for that. And the sanctuary

4 is where the church is actually located?

5 A. Right.

6 Q. The fellowship hall is a meeting hall

7 basically?

8 A. Exactly.

9 Q. Where you hand out the food?

10 A. That's right.

11 Q. That's right? Okay.

12 There's bathrooms in this building,

13 aren't there?

14 A. It is.

15 Q. And there's sinks and stuff?

16 A. Two bathrooms in the building.

17 Q. Okay. Are there any other sinks or

18 other --

19 A. We have a sink in the kitchen.

20 Q. Okay. And those bathrooms are in

21 operating condition?

22 A. Right.

1 Q. So you have water flowing through the
2 building to those bathrooms; isn't that right?

3 A. Right.

4 Q. Mr. Ballard, isn't it true that you can't
5 let your building get freezing because you'd
6 actually damage your water pipes; isn't that
7 right?

8 A. Right.

9 Q. So you have to set it at a minimum
10 temperature; upwards of 50 degrees is what people
11 tend to set it at; isn't that right?

12 A. Right.

13 Q. What do you set it at?

14 A. Around 45 or 50 so that it doesn't freeze.

15 JUDGE RILEY: That would be the thermostat?

16 THE WITNESS: Right.

17 MR. MCCARTHY: Q Do you know how many
18 furnaces this building has by any chance; in
19 other words, the heating units, how many heating
20 units?

21 A. We have two -- three.

22 Q. Three. Okay.

1 One for each area?

2 A. Yes.

3 Q. All right. And then do you have a hot

4 water tank or a water heater?

5 A. We have two hot water heaters.

6 Q. Okay.

7 A. One is electric. The other one we have is

8 35 or 40 -- I think it's a 40- or 45-gallon gas

9 heat -- hot water heater.

10 Q. Okay. And there was some talk that you

11 have a large stove in the kitchen, right, to cook

12 things?

13 A. We do have a stove now. We got it -- it

14 was in November of 2001, I think. I think I'm

15 right.

16 Q. Okay.

17 A. Before then, there was no stove.

18 Q. Okay. And your one gas meter to this

19 building serves the whole building?

20 A. Right.

21 Q. Isn't that right?

22 A. That's right.

1 Q. Now, there was some confusion I saw in
2 your direct when you were discussing -- it's
3 Complainant's Exhibit A for identification. Your
4 counsel referred to different dates for the meter
5 installation.

6 Isn't it true the meter was installed on
7 February 14, 2002? Your documents -- strike that
8 last question.

9 A. I think it was. Do I have that bill?
10 Meter installed 2/14, 2002.

11 Q. Very good. So if there was any confusion
12 in earlier statements, the date you're standing
13 by is 2/14 of 2002, so February 14, 2002, right?

14 If there was any confusion in the prior
15 testimony about the date that the new meter was
16 put in the building, your testimony now is that
17 2 -- February 14 of 2002 is the proper date?

18 A. Exactly.

19 Q. Thank you.

20 Now, Reverend Ballard, this is mostly
21 curiosity. You spoke a different oath today as
22 far as when you swore in for testimony than what

1 was first proffered here. Why is that?

2 A. You mean when we was here the first time?

3 MR. McCARTHY: No.

4 JUDGE RILEY: What he's saying is, I

5 originally started administering you an oath, and

6 you took a piece of paper out of your pocket and

7 said, Please read me this oath.

8 THE WITNESS: Right.

9 JUDGE RILEY: He's inquiring as to why you

10 wanted to read that specific oath.

11 THE WITNESS: In the church and as Christians,

12 we do not swear and that is in our teaching; that

13 is our belief. But we do tell the truth, but we

14 teach that we do not swear.

15 JUDGE RILEY: Okay. All right. So you

16 interpret the word "swear" as to mean some kind

17 of vulgarity or profanity?

18 THE WITNESS: Exactly.

19 MR. McCARTHY: Okay.

20 Q. Now, when you were testifying about your

21 Gas Bill Analysis, that's Complainant's Exhibit

22 A, you went through it in some detail. I noted

1 that, didn't I, after you went through it, that
2 there's two Decembers listed on this document.
3 Do you know the reason why there's two Decembers?
4 A. Well that 353.99, I think it is, that was
5 a deposit.
6 Q. Okay. All right. Well, but there's also
7 a December, isn't there, under 2001, an entry for
8 December under 2001 and -- well, under each of
9 the Decembers under 2001; isn't that right?
10 A. Say that again.
11 Q. Well, if you look to the column for the
12 year 2001, there's an entry in each one of the
13 Decembers?
14 A. Right.
15 Q. Why is that?
16 A. Why is that?
17 Q. Well, you've got one --
18 A. Well, I have one here for 1998. The rest
19 of them are lined up across.
20 Q. I understand that your wife may go further
21 into this document.
22 A. Right.

1 Q. I guess what I'm trying to get from you,
2 sir, is whether you understand why you have in
3 2001 two different entries. If you don't know
4 the answer, that's fine.

5 A. Like I said, one is for the deposit; and
6 the other one is for a bill.

7 Q. That was in 1998.

8 A. Right.

9 Q. I'm speaking of 2001.

10 A. 2001? 2001. Okay.

11 What did we have here? I would have to
12 have the bill. We got two bills. We received
13 two bills in that month.

14 Q. Okay.

15 A. In 2001.

16 Q. All right. That at least explains it.

17 All right.

18 The analysis that you have here, again
19 Complainant's Exhibit A, lists a bunch of bills
20 you received, right?

21 A. Right.

22 Q. Isn't it true that you got subsequent

1 billing that changed all that billing?

2 A. Repeat that.

3 Q. Well, you stated on direct, I believe,
4 that you got a -- and I'm not going to
5 characterize it the way your attorney did -- but
6 it was a peculiar billing of \$18,000; isn't that
7 right?

8 A. Uh-huh.

9 Q. And you said that was -- I believe what
10 you said it was is a correction to prior billing?

11 A. No. I said we got one for \$18,000.

12 Q. All right. All right. Well, I'll leave
13 it at that. That's fine.

14 Isn't it true that there is a person who
15 has used some of your space to teach a dancing
16 class?

17 A. To teach a dancing class. In 116 there
18 were -- the person we got the building from was
19 there sometimes on Saturday for, like, about a
20 couple of hours teaching a dancing class. Lately
21 I don't know what happened to her. I haven't
22 seen her.

1 Q. Has anybody else used your place?

2 A. No, nobody else does. It's all in the

3 church name.

4 Q. All right. I believe what you said on

5 direct was that you moved in in August of 1998,

6 right?

7 A. Uh-huh, yes.

8 Q. All right. Now, you said on direct again

9 that you feel you only owe 4,000 to \$4,500; isn't

10 that right?

11 A. Right.

12 Q. You didn't explain, did you, where you got

13 that 4,000 to \$4,500 figure, did you?

14 A. No, I didn't.

15 MR. McCARTHY: Okay. I think I have -- let me

16 just see one other thing here. One moment.

17 All right. No further questions of Mr.

18 Ballard.

19 JUDGE RILEY: Okay. I've just got a couple of

20 my own.

21

22

1 EXAMINATION

2 BY

3 JUDGE RILEY:

4 Q. Reverend Ballard, you stated that there
5 are three heating units in this building, one for
6 each area; is that correct?

7 A. Right.

8 Q. And yet I thought I heard you say --
9 testify later on that there was only one gas
10 meter heating the entire building; is that
11 correct?

12 A. It is.

13 Q. So two of them aren't working?

14 A. Two of the --

15 Q. Two of the gas meters -- two of the gas
16 units -- I see. Maybe we're talking about two
17 different things.

18 When you say there are three different
19 heating units, it's like there are three
20 different furnaces?

21 A. Right.

22 Q. Okay. And yet there was only one gas

1 meter --

2 A. Right.

3 Q. -- employed --

4 A. Exactly.

5 Q. -- for all three of these furnaces?

6 A. Exactly.

7 JUDGE RILEY: Okay.

8 MR. McCARTHY: You know, I'm sorry. I began

9 referring to a map, and I don't think I ever kind

10 of like laid a foundation. It looks like he

11 wants to enter it as his own exhibit. I won't do

12 that now and try and enter it if we're not --

13 JUDGE RILEY: Let's hold on a minute.

14 MR. McCARTHY: I'm sorry.

15 JUDGE RILEY: Q So all three heating units

16 may be working?

17 A. Right.

18 Q. But there's only one meter showing the

19 usage on all three of these?

20 A. Exactly.

21 Q. Let me go back to this document that's

22 marked as the Gas Bill Analysis. Is it again

1 your testimony that the handwritten figures over
2 in the far right column were prepared by your
3 attorney?

4 A. Right.

5 Q. And have you examined these figures, done
6 any calculations of these figures yourself as to
7 whether or not these averages are correct, or
8 have you just accepted what your attorney has
9 presented to you?

10 A. No, I've looked at it. It's pretty
11 satisfactory.

12 Q. Okay. But the rest of the document, the
13 printed portion of the document with the numbers
14 and the -- with the figures in the various boxes,
15 that was prepared by you or at your direction?

16 A. Right.

17 Q. Okay. And that includes the information
18 down at the very bottom?

19 A. Exactly.

20 Q. And I take it that December 1998 through
21 May 2001 with the figure approximately 9,884
22 reflects the total usage for that period?

1 A. '98 to 2001, right.

2 Q. Okay. Then the figure right below it for
3 the period December 1998 through May 2002, that
4 simply reflects an extra year of usage then?

5 A. Uh-huh.

6 Q. Is that correct? You have to say yes or
7 no.

8 A. Right, yes, yes.

9 Q. And the new meter was installed on
10 February 14, 2002?

11 A. Right.

12 JUDGE RILEY: Okay. Did you have anything
13 further on cross?

14 MR. MCCARTHY: No. Thank you.

15 JUDGE RILEY: Mr. Brooks, did you have any
16 redirect for Reverend Ballard?

17 MR. BROOKS: Yes. Redirect.

18 REDIRECT EXAMINATION

19 BY

20 MR. BROOKS:

21 Q. Reverend Ballard, has anyone resided in
22 the premises at any time over the course of the

1 ownership of these premises by Faith United
2 Church?

3 A. No.

4 Q. Do you have a night watchman who's in
5 there and may be a person who would expend the
6 usage of heat?

7 A. No.

8 Q. Has there been any leaks that you recall
9 over the course of the ownership of these
10 premises by Faith United which should be brought
11 to the attention of this Commission?

12 A. I thought the meter that was in there
13 before, I thought it was leaking, but they said
14 that it wasn't.

15 Q. So there has been no other leaks, say,
16 from water meters -- or heaters or anything
17 installed that would use energy that is provided
18 by Peoples Gas?

19 A. No.

20 Q. Has anyone ever operated any activity or
21 conducted any activity in the premises over an
22 entire 24-hour period?

1 A. No.

2 Q. Now, you earlier testified that the reason
3 why you took an alternative oath other than the
4 oath that was here was because of your religious
5 belief; is that correct?

6 A. Yes.

7 Q. And this religious belief is based on the
8 King James Holy Bible; is that right?

9 A. Right, right.

10 Q. And in that Bible does it not say that
11 you're not to swear to any man or on anyone or
12 your children or anything like that?

13 A. Yes, it does.

14 MR. BROOKS: No further questions.

15 JUDGE RILEY: Let me jump in real quick.

16 FURTHER EXAMINATION

17 BY

18 JUDGE RILEY:

19 Q. Reverend, you said that you felt that the
20 old meter was leaking but someone came out and
21 said it wasn't. Who did the inspection to say it
22 wasn't leaking?

1 A. I don't remember. I didn't get the name
2 of the people that came out to change the meter,
3 but they said that it was all right, but they
4 changed it.

5 Q. Okay. When the meter was changed -- do
6 you think it might have been Peoples Gas Light
7 and Coke Company representatives?

8 A. That's who came out to change it, yes.

9 Q. Were they the ones who told you that the
10 old meter wasn't leaking?

11 A. Right, yes.

12 Q. Now, when you say a meter is leaking, can
13 you actually smell gas coming from a leaking
14 meter?

15 A. I thought -- I don't know. It seemed like
16 you could smell something. I don't know if you
17 can even smell that gas or not. It seemed as if
18 you could smell a little gas when you would go in
19 there.

20 Q. Okay. It sounds like you smelled a faint
21 odor of gas possibly?

22 A. Yes.

1 JUDGE RILEY: Counsel, any recross?
2 MR. McCARTHY: Yeah, just briefly.
3 RECROSS-EXAMINATION
4 BY
5 MR. McCARTHY:
6 Q. The meter is located inside the building;
7 isn't that right?
8 A. Yes.
9 Q. Does it have its own room or something?
10 A. Yes. Well, it's in a room upside the
11 wall.
12 Q. Okay.
13 A. It's in the offices, like.
14 Q. You never called to report a leak, did
15 you?
16 A. Yes. I called them and told them they
17 needed to come out and check it because I thought
18 I smelled gas and someone should come check it.
19 Q. Do you know when that was?
20 A. That was -- I don't remember the date.
21 JUDGE RILEY: This was a call to check the old
22 meter, right?

1 THE WITNESS: Right.

2 MR. McCARTHY: I think that's it.

3 JUDGE RILEY: Okay. Then the only thing that
4 we have left to deal with then is the document
5 described as the Gas Bill Analysis that Reverend
6 Ballard said that he had prepared, and it
7 contains handwritten notations by counsel for the
8 complainant.

9 And, Mr. McCarthy, do I understand that
10 your objection is still the same?

11 MR. McCARTHY: It's still the same. I think
12 that we were going to go through with --

13 MR. BROOKS: Yes.

14 MR. McCARTHY: My understanding was that we
15 were going to withhold the admission of that
16 document until he had gone through it with the
17 Reverend's spouse.

18 JUDGE RILEY: Okay. Mrs. Ballard. Okay.
19 I'll hold the ruling in abeyance again until
20 we've completed the testimony of Mrs. Ballard.

21 Reverend Ballard, thank you. That
22 excuses you.

1 If you people can give me just about
2 five minutes, I'm going to take a short break.

3 (Whereupon, a recess was taken.)

4 JUDGE RILEY: Let's go back on the record.

5 (Witness affirmed.)

6 JUDGE RILEY: Please proceed.

7 ANNIE BALLARD,
8 called as a witness herein, having been affirmed,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY

12 MR. BROOKS:

13 Q. Would you state your name for the record,
14 please.

15 A. My name is Annie Ballard.

16 Q. And your address, Ms. Ballard?

17 A. Is 5100 West Crystal Street, Chicago,
18 Illinois, 60651.

19 Q. And are you a member of any church in the
20 community?

21 A. Yes.

22 Q. And what church are you a member of?

1 A. Faith United Missionary Baptist Church.

2 Q. And where are they located?

3 A. At 120 East 115th Street, Chicago,

4 Illinois. And the zip code is 60628.

5 Q. Calling your attention to -- are you

6 familiar with any gas usage at the church at 120

7 East 115th Street?

8 A. Yes.

9 Q. And is this a church that you are a member

10 of?

11 A. Yes.

12 Q. And are you also an officer at this

13 church?

14 A. Yes.

15 Q. And what office do you hold at the church?

16 A. Church clerk.

17 Q. Okay. In that capacity do your duties

18 include receiving gas bills from Peoples Gas

19 Light and Coke Company?

20 A. Yes, yes.

21 Q. And are you familiar with these bills?

22 A. Yes.

1 Q. And do you have the responsibility of
2 issuing payments for the bills?

3 A. Yes.

4 Q. And I show you what is marked as Peoples
5 (sic) Exhibit A for identification purposes and
6 ask, are you familiar with that document?

7 A. Yes.

8 Q. Okay. And what is that document, please?

9 A. It's a Gas Bill Analysis.

10 Q. And who compiled that Gas Bill Analysis?

11 A. My daughter and myself.

12 Q. Okay. And how were they compiled?

13 A. From the actual gas bills from Peoples
14 Energy.

15 Q. Okay. Let me, if you will -- now, on this
16 document there are five columns; is that correct?

17 A. Yes.

18 Q. And the first column is for the year 1998;
19 is that correct?

20 A. Yes.

21 Q. And accompanying that column along the
22 side are each month of the year; is that correct?

1 A. Yes.

2 Q. Starting with January all the way through
3 December; is that correct?

4 A. Yes.

5 Q. Now, in that first column for 1998,
6 December, there are two figures; is that correct?

7 A. Yes.

8 Q. And those figures are \$353.99 and \$912.18;
9 is that correct?

10 A. Yes.

11 Q. What is the figure \$353.99 representing as
12 so listed?

13 A. That's a deposit on the gas meter.

14 MR. BROOKS: Okay.

15 JUDGE RILEY: On the gas meter?

16 THE WITNESS: For gas service.

17 JUDGE RILEY: Okay.

18 MR. BROOKS: Q And that deposit is still
19 being held by Peoples Gas and Light as far as
20 your knowledge is?

21 A. Yes, yes.

22 Q. Okay. And then below that there's the

1 amount \$912.18; is that correct?

2 A. Yes.

3 Q. Okay. Now, where did that figure,

4 \$912.18, come from?

5 A. That's a combined figure for the gas bill

6 for that period and the deposit.

7 (Whereupon, Complainant's

8 Exhibit C was marked for

9 identification.)

10 MR. BROOKS: Q Now, I show you what is marked

11 as Complainant's Exhibit C for identification

12 purposes.

13 A. Okay. That's not the combined --

14 Q. Just a minute.

15 I show you what is marked Complainant's

16 Exhibit C for identification purposes and ask,

17 are you familiar with this exhibit?

18 A. Yes.

19 Q. Okay. And what is this Exhibit C?

20 A. This is a copy of the actual bill from

21 Peoples Gas.

22 Q. Okay. And is this bill on this document

1 -- is the account number 993902-65708?

2 A. Yes.

3 Q. Is that the account number that has been

4 assigned the Faith United Missionary Baptist

5 Church?

6 A. Yes.

7 Q. Okay. And this is for -- the bill issue

8 date is December 18, 1998; is that correct?

9 A. Yes.

10 Q. Okay. Now, on that statement of the bill,

11 there are a number of dates and figures and

12 addresses and account numbers and various things;

13 is that correct?

14 A. Yes.

15 Q. Now, among those are the amounts listed

16 that are the current charges after taxes; is that

17 correct?

18 A. Yes.

19 Q. And that amount is found on the

20 right-hand -- right side of Exhibit C; is that

21 correct?

22 A. Yes.

1 Q. And that amount is listed at \$912.18; is
2 that correct?

3 A. Yes.

4 Q. And that's the current charges after
5 taxes; is that correct?

6 A. Yes.

7 Q. Okay. Now, on Exhibit A, the Gas Bill
8 Analysis, does it list the amount as so stated on
9 the gas bills where it lists current charges
10 after taxes? Is that the figures that were -- is
11 that the figure that is used on each one of the
12 amounts listed in the Gas Bill Analysis?

13 A. Yes.

14 MR. BROOKS: Okay.

15 JUDGE RILEY: I lost the thread of that,
16 counsel.

17 MR. MCCARTHY: Yeah.

18 MR. BROOKS: Okay. All right.

19 Q. I show you again what is marked as
20 Complainant's Exhibit C for identification
21 purposes.

22 JUDGE RILEY: Right.

1 MR. BROOKS: Q And is the amount \$912.18
2 listed on the actual gas bill that was issued to
3 Faith United Missionary Baptist Church on
4 December 18, 1998?

5 A. Yes.

6 Q. And is that amount so reflected on the
7 bill and on your analysis?

8 A. Yes.

9 Q. And is that amount the amount that is
10 listed as the current charges after taxes?

11 A. Yes.

12 MR. BROOKS: Okay.

13 MR. MCCARTHY: Now, your Honor, I requested --
14 made a request, discovery request, to Faith
15 United requesting copies of all communications
16 and other documents relating to such
17 communications including bills with People Gas,
18 okay? One of the strange things that we have
19 here is that we don't actually keep copies of
20 bills in our records. They would just get too
21 voluminous, so we keep records of what data was
22 put onto the bills basically. They never

1 responded by giving me copies of the bills that
2 they have.

3 Now, I know this is not a very
4 compelling thing maybe from your perspective, but
5 I would have liked to have seen some of these
6 older bills. It's hard for us to reconstruct
7 bills going back this far. I never did get them
8 so...

9 JUDGE RILEY: Well, am I to take this that
10 this is an objection to the use of this --

11 MR. McCARTHY: Maybe what I should do, I
12 should allow him to talk about it.

13 JUDGE RILEY: No. What I'm saying is that the
14 failure to produce the discovery, I don't know if
15 that cures it by producing it at hearing.

16 MR. McCARTHY: Right. No, it doesn't.

17 JUDGE RILEY: But they can still use it as
18 evidence in their own case. All counsel has
19 demonstrated so far is that the figure that
20 appears on Exhibit A came off of Exhibit C.

21 MR. McCARTHY: Okay. Perhaps my objection is
22 best suited for -- well, if it's attempted to be

1 put into evidence.

2 JUDGE RILEY: Okay.

3 MR. MCCARTHY: I'm just clarifying something

4 here.

5 MR. BROOKS: As a point of clarification --

6 may we go off the record a minute?

7 JUDGE RILEY: Okay. Go ahead.

8 (Whereupon, a discussion was had off

9 the record.)

10 MR. BROOKS: Q Ms. Ballard.

11 A. Yes.

12 Q. The figures that are reflected on

13 Exhibit A, for every figure listed on Exhibit A,

14 they did come from the section of the current

15 charges before -- I mean, after taxes as so

16 listed on each bill?

17 A. Yes.

18 MR. BROOKS: Okay.

19 JUDGE RILEY: Current charges after taxes?

20 THE WITNESS: Yes.

21 JUDGE RILEY: After taxes.

22 THE WITNESS: Yes. If I could explain it,

1 because I called Peoples Gas back when we was
2 going through all of this to see why they're
3 charging us so much tax. And they said they had
4 to --

5 JUDGE RILEY: Counsel, do me one favor and
6 read -- the account number on that bill again was
7 993902 --

8 MR. BROOKS: -- 65708.

9 JUDGE RILEY: 08. Thank you.

10 MR. BROOKS: It will be our intention then to
11 mark all of the bills that have been received
12 since the first bill of December 18, 1998,
13 through the last bill which was issued -- here's
14 the current bill now for November -- but I think
15 for clarity of time through October 2002 would be
16 listed as Exhibit C.

17 JUDGE RILEY: Like a Group Exhibit C.

18 MR. BROOKS: Yes.

19 JUDGE RILEY: So they have been marked.

20 MR. BROOKS: I have no further questions of
21 Ms. Ballard.

22 JUDGE RILEY: Let me clear up a couple of

1 things for me.

2 EXAMINATION

3 BY

4 JUDGE RILEY:

5 Q. Mrs. Ballard, you said that you are a
6 member of the church. You're also Reverend
7 Ballard's spouse; is that correct?

8 A. Yes.

9 Q. And you are the church clerk?

10 A. Yes.

11 Q. And that means you get all the bills for
12 the church?

13 A. Yes.

14 Q. And you pay all the bills for the church?

15 A. Yes.

16 Q. So you have control of the checking
17 account?

18 A. Yes.

19 Q. Okay. And that includes Peoples Gas
20 obviously?

21 A. Yes.

22 Q. Is the checking account that you use a

1 Faith United Church checking account?

2 A. Yes.

3 Q. That's the name that's on the checking

4 account itself?

5 A. Yes.

6 Q. And those are the checks -- that was the

7 checking account that was used to pay the Peoples

8 Gas bills in question here?

9 A. Yes.

10 Q. Okay. And you said that you and your

11 daughter prepared this Gas Bill Analysis; is that

12 correct?

13 A. Yes.

14 Q. Were you present for the entire

15 preparation of this --

16 A. Yes.

17 Q. -- document?

18 A. Yes.

19 Q. Even though some of it may have -- the

20 input may have come from your daughter?

21 A. All of it -- I was holding the bills and

22 calling the numbers off to her. She was entering

1 it on the computer.

2 Q. I see.

3 A. Right.

4 Q. Okay. And have you since verified that

5 the numbers on this document were input

6 accurately by your daughter?

7 A. Yes.

8 Q. Which is to say that there weren't any

9 typographical errors or anything like that?

10 A. Right, yes.

11 Q. Are you familiar with the handwritten

12 figures that are on the far right column?

13 A. Yes.

14 MR. BROOKS: Point of clarification. We have

15 decided to withdraw that exhibit and provide an

16 amended exhibit which just lists the figures that

17 are reflected on the bills.

18 JUDGE RILEY: Okay. Then you're going to

19 withdraw the portion that has the handwritten

20 notations?

21 MR. BROOKS: Yeah. I withdraw the portion

22 that has the --

1 JUDGE RILEY: That's fine. That makes my last
2 question irrelevant. I don't have anything
3 further for Ms. Ballard.

4 Please proceed, counsel.

5 MR. MCCARTHY: No. I have nothing for
6 Ms. Ballard.

7 JUDGE RILEY: No cross.

8 Ms. Ballard, thank you very much. You
9 are excused. There are no further questions for
10 you.

11 Counsel, we're back to the matter of
12 Exhibit A as amended without the handwritten
13 portion. Now, was that the hearsay portion that
14 you were objecting to?

15 MR. MCCARTHY: Right. I guess I'd say that
16 that was hearsay but to the extent -- let's put
17 it this way: I was objecting because any
18 document that's a statement, an out-of-court
19 statement made for the proof of the matter
20 asserted is -- the truth of the matter asserted
21 is hearsay. This doesn't fit any obvious
22 exception.

1 However, because I am going to rely on
2 Peoples Gas' records as well, far be it for me to
3 really pick it apart. So I will not object to it
4 being admitted into evidence.

5 On the other hand, I would state that we
6 will take it up on our case; that the numbers
7 shown in there are, in fact, not the correct
8 bills.

9 JUDGE RILEY: Your case is what your case is.
10 We'll get to that at that time. Okay. Right.
11 Because if it's knocked out as a piece of
12 evidence, then it's not part of the proceedings
13 from this point on.

14 MR. MCCARTHY: Right.

15 JUDGE RILEY: So under those circumstances, I
16 will admit Complainant's Exhibit A into evidence.

17 (Whereupon, Complainant's
18 Exhibit A was admitted
19 into evidence.)

20 JUDGE RILEY: Counsel, you had something?

21 MR. BROOKS: No, nothing further.

22 JUDGE RILEY: Okay. Can you give me an

1 estimate, again, now that we're all here? You
2 said that you've got a particularly complex
3 document that you have your witness for.

4 MR. McCARTHY: I do have a fairly complex
5 document. I guess I can't really control how
6 long cross will take.

7 JUDGE RILEY: I understand.

8 MR. McCARTHY: I would think we'd be done in
9 about -- within a half an hour, maybe 25 minutes.

10 JUDGE RILEY: What I was thinking is that this
11 is the only witness that Peoples Gas has. And I
12 was wondering whether or not it would be
13 advisable to break for lunch quickly and then
14 return or if we can just proceed and complete the
15 witness. If he has direct examination that can
16 be done in approximately a half an hour, I'm
17 wondering -- well, I'm not going to limit you to
18 your cross-examination or try to pin you down.

19 MR. BROOKS: The thing that I have concern
20 with is that the Reverend is a diabetic. Are we
21 on track with your eating schedule or taking your
22 medication? Can we go another half hour without

1 your experiencing any physical difficulty? Are
2 you okay?

3 REVEREND BALLARD: Should be.

4 MR. BROOKS: We're in favor of proceeding, but
5 how is everybody else?

6 JUDGE RILEY: It's not just the half hour I'm
7 talking about for the direct. It's going to be
8 your cross-examination also, and there's no
9 telling how long that will go depending on what
10 you hear. So, again, if we have a medical
11 complication here, I certainly don't want to
12 exacerbate it.

13 REVEREND BALLARD: I have an orange pop back
14 there. It will be good.

15 JUDGE RILEY: So in other words, there won't
16 be any physical danger then?

17 REVEREND BALLARD: Won't be any problem.

18 JUDGE RILEY: All right, then. Then why don't
19 we proceed and see if we can't just move straight
20 through?

21 Before we go any further, counsel, you
22 didn't actually mark -- did you mark Exhibit B?

1 MR. BROOKS: Yes.

2 MR. McCARTHY: Exhibit B, yes. Thank you.

3 Do you move for it to be entered?

4 MR. BROOKS: Yes, for it to be entered.

5 JUDGE RILEY: These are the blueprints, huh?

6 MR. McCARTHY: And I do not object to the map

7 per se. I do object to the handwritten notations

8 on it.

9 JUDGE RILEY: All right.

10 MR. McCARTHY: This has some hint of -- well,

11 I'm mostly concerned about this stuff down here.

12 These are opinions in part. And I guess I like

13 the map because it just shows the layout of the

14 building. It gives some perspective. And that's

15 why I'm not objecting because it has some

16 evidence that it would be reliable.

17 JUDGE RILEY: Right. Counsel, you're

18 presenting this Exhibit B, which is a blueprint

19 of the church in question -- or the building in

20 question which contains the church. Where did

21 you obtain it?

22 MR. BROOKS: That was given at the closing,

1 real estate closing. It's the architect's here.
2 It's just that they have to pass a tough city
3 requirement in order that the church can pass
4 from one owner to the next. And it was this
5 architect that provided it in order that the
6 church would be able to get a permit -- the
7 building would be able to have a permit to
8 operate as a church.

9 JUDGE RILEY: Okay. Let me recall Mrs.
10 Ballard very quickly.

11 ANNIE BALLARD,
12 recalled as a witness herein, having been
13 previously affirmed, was examined and testified
14 as follows:

15 FURTHER EXAMINATION

16 BY

17 JUDGE RILEY:

18 Q. Mrs. Ballard, have you ever seen this
19 document before?

20 A. Yes.

21 Q. And was this in the possession of the
22 church?

1 A. Yes, it is.

2 Q. To your knowledge is it from the real

3 estate closing?

4 A. This --

5 Q. From a real estate closing that the church

6 was involved in, or do you know how it was

7 obtained by the church?

8 A. Yes, I do know how it was obtained.

9 Q. Please.

10 A. Okay. We contacted the University of

11 Illinois Architectural School because when we

12 were given this building, we didn't have any

13 money. So we contacted the University of

14 Illinois Architectural School because we had been

15 turned down by several architects to do a

16 blueprint of the building. So they referred us

17 to Mr. Sam Marts which is a fellow of the

18 University of Illinois Architectural School. And

19 he did this at a discount rate. Okay.

20 Q. Essentially it's just a floor plan, isn't

21 it?

22 A. Yes. It doesn't mean what is actually

1 there now. Okay. This is --

2 MR. BROOKS: That's as far as -- he just

3 wanted to know --

4 JUDGE RILEY: Q Well, let me ask you this:

5 Do you know who made the handwritten notations on

6 here?

7 A. Yes. I did.

8 Q. These are all your handwritten notations?

9 A. All of them are mine. I sent that to

10 Mr. McCarthy.

11 MR. MCCARTHY: Right.

12 THE WITNESS: Yes.

13 JUDGE RILEY: Now, with regard to -- counsel,

14 I'm going to go back.

15 MR. BROOKS: No objection.

16 JUDGE RILEY: Q You were about to say

17 something about these areas I thought.

18 A. Right. This is the area that we moved

19 into on the 24th of August --

20 Q. That was when you first moved in.

21 A. -- in 1998.

22 Q. Right.

1 A. Yes. This area. Okay. And we wasn't
2 there except on Sunday for worship service.

3 Q. All right.

4 A. The rest of the week we were in this area
5 cleaning.

6 Q. All right.

7 A. We had two or three dumpsters, cleaning up
8 and so forth. So we weren't using gas here
9 because there was no gas there. There was no gas
10 anywhere but right here when we moved into the
11 building until November.

12 Q. All right. Let me finish my questions.

13 A. Okay.

14 Q. Now, it's my understanding that you moved
15 into this area here, and this was like a
16 temporary location?

17 A. Right.

18 Q. To set up your church while you cleaned
19 the rest of --

20 A. Yes.

21 Q. -- the facility?

22 A. Yes.

1 Q. Once you had cleaned the rest of the
2 facility, you moved out of this area?

3 A. Right.

4 Q. And moved into the areas that are noted
5 here?

6 A. Yes.

7 Q. And this is where you set up the church?

8 A. Yes.

9 Q. And you've got this one area here that's
10 marked studio?

11 A. Right.

12 Q. After you had moved out of there, after
13 you had moved the church facility out of there,
14 did someone move into that studio?

15 A. No.

16 Q. Was that the dance class?

17 A. It was always a studio. The owner of the
18 building used it as a studio sometimes. When she
19 gave us the building, she wasn't using it. She
20 was renting space from the park district because
21 she didn't have gas. She didn't have heat.

22 Q. All right. All right.

1 A. Or water.

2 Q. This area was the only one that was heated

3 when you moved in?

4 A. Yes.

5 Q. All right. There was no heat in the rest

6 of this building anywhere?

7 A. No.

8 Q. Okay. Do you know how it had been shut

9 off or why it wasn't being heated?

10 A. She said a long time.

11 Q. My question is, now once you moved out of

12 this temporary area --

13 A. Right.

14 Q. -- and you moved into the main portion, is

15 this area now unheated?

16 A. That furnace is still there, but --

17 Q. The furnace is still there.

18 A. -- there is no one occupying that space

19 now.

20 Q. I understand that. But is the furnace

21 still providing heat to that area? That's my

22 question.

1 A. Yes.

2 Q. Okay. It is heated?

3 A. Yes.

4 JUDGE RILEY: All right. Mr. McCarthy, I'm

5 going to allow you additional cross based on

6 that.

7 MR. McCARTHY: You know, I don't have any

8 cross. I guess I would have no problem with

9 admitting it without the marks made, you know --

10 with the understanding that the marks not made by

11 the architect should be disregarded.

12 MR. BROOKS: No objection.

13 JUDGE RILEY: Ms. Ballard just testified that

14 those are her notations.

15 THE WITNESS: Right.

16 MR. McCARTHY: You can't tell what's

17 highlighted and not highlighted.

18 THE WITNESS: You had the highlighted one.

19 MR. McCARTHY: I think I do. I can't find it.

20 JUDGE RILEY: Excuse me. We're not in a

21 conversational tone here.

22 MR. McCARTHY: Sorry.

1 JUDGE RILEY: You're expressing an
2 objection --

3 MR. MCCARTHY: Yes.

4 JUDGE RILEY: -- because of the written
5 notations.

6 Q. Ms. Ballard, can you tell me what would
7 the highlighted area be on this?

8 A. Yes. Okay. I highlighted the areas that
9 had heat.

10 Q. Okay. And what are you referring to?
11 Highlighted area is not heated and only used for
12 storage.

13 A. Right.

14 Q. So it's the areas where you have indicated
15 not used.

16 A. Yes.

17 Q. Areas not used are the ones that are
18 referred to in the highlight?

19 A. Yes.

20 Q. And that's over in that area that's
21 marked -- that's handwritten -- where it's got
22 the handwritten --

1 A. Right.

2 Q. -- studio and office in the darker

3 letters?

4 In other words -- and then there's other

5 areas where it says no heat?

6 A. Yes.

7 Q. These are highlighted on a colored copy?

8 A. Right, yes.

9 Q. All right. What about the area seldom

10 used over on the right? Is that highlighted?

11 A. I don't think so.

12 JUDGE RILEY: Okay.

13 MR. McCARTHY: I can't find the one that -- it

14 was sent to me, and there was highlighting on it.

15 That's what I was scrambling through here trying

16 to find earlier when we got to the hearing.

17 JUDGE RILEY: All right. If you had the one

18 that was highlighted --

19 MR. McCARTHY: It would be help, but I don't

20 have it and I don't know why.

21 JUDGE RILEY: Well, if it was sent to you --

22 MR. McCARTHY: I guess what I would say,

1 though, is that -- well, maybe I could do this in
2 question form.

3 CROSS-EXAMINATION

4 BY

5 MR. McCARTHY:

6 Q. She just stated that the area -- you just
7 stated, right, that the area that is marked the
8 studio area, among other things over there to the
9 left of the drawing, was highlighted as areas
10 that's not heated?

11 A. Right.

12 Q. But you just stated to him before that it
13 is heated?

14 A. Okay. There is a heater there.

15 Q. He asked, did he not, that there was a
16 heater there and you said yes. And he also said,
17 And it's providing heat to that area, and you
18 said yes; isn't that right?

19 A. Yes. It could provide heat. It can
20 provide heat.

21

22

1 FURTHER EXAMINATION

2 BY

3 JUDGE RILEY:

4 Q. And is that the square little box you've
5 made off on the left side of this document that
6 says heater?

7 A. Yes.

8 Q. Okay. And your testimony now is that it
9 could provide heat?

10 A. Yes.

11 Q. But it is not providing heat?

12 A. Right.

13 Q. And is that just simply because it's been
14 shut down or turned off or whatever?

15 A. We're not using the space.

16 Q. You're not using the space?

17 A. Right.

18 Q. But how is the heater not -- in other
19 words, the heater has to be turned off because
20 the space can still be heated even if it's not
21 used. That's my concern.

22 A. Right. We can't afford it.

1 Q. And what you're saying is that that area
2 -- that heater is not being used to heat that
3 space?

4 A. Right.

5 JUDGE RILEY: Okay. Counsel, with regard to
6 -- well, I've already admitted A.

7 With regard to B, I understand your
8 concerns, but I am going to find it very useful
9 in helping me make a decision, so I am going to
10 admit it in its entirety.

11 MR. MCCARTHY: Okay.

12 (Whereupon, Complainant's
13 Exhibit B was admitted
14 into evidence.)

15 JUDGE RILEY: Counsel, you had a Group
16 Exhibit C that you also had marked. And those
17 were the actual bills?

18 MR. BROOKS: These are the actual bills.

19 JUDGE RILEY: Now, are these copies available
20 for us or...

21 MR. BROOKS: They are available for you.

22 JUDGE RILEY: And that's in all four folders?

1 MR. BROOKS: The years '98, '99, and all the
2 way up to 2002.

3 JUDGE RILEY: 2000, 2002. So what we've got
4 to do is we just need copies is what it amounts
5 to.

6 MR. McCARTHY: Yes, I think so.

7 MR. BROOKS: You can have those.

8 MR. McCARTHY: Well, I'm supposed to be able
9 to see them too.

10 JUDGE RILEY: Yeah, I know.

11 MR. McCARTHY: That's okay.

12 JUDGE RILEY: Why don't -

13 MR. McCARTHY: You know, I may not have any
14 objection to these documents. If they look on
15 their face --

16 JUDGE RILEY: Counsel, I'm laughing because
17 these are Peoples Gas' bills.

18 MR. McCARTHY: Right, right.

19 JUDGE RILEY: How can you object to your own
20 records?

21 MR. McCARTHY: Well, I'm assuming they're all
22 Peoples Gas' bills.

1 JUDGE RILEY: Right. Okay.

2 MR. MCCARTHY: I haven't seen them all.

3 And second -- number two, there are a
4 number of notations on those bills that are not
5 Peoples Gas' marks. I object to those in every
6 case.

7 So I guess my concern is that to the
8 extent they appear to be Peoples Gas' bills, I'm
9 happy with them.

10 JUDGE RILEY: All right.

11 MR. MCCARTHY: To the extent that there's
12 extra notations, I object. And so what I would
13 ask to be entered would be with those stricken.

14 MR. BROOKS: Yes. No objection.

15 JUDGE RILEY: Let me again qualify -- let me
16 see if we can get the exhibit qualified.

17 Q. And, again, I'll turn to you,
18 Mrs. Ballard, because you're the one that was
19 receiving these bills and paying them --

20 A. Yes.

21 Q. -- as you testified.

22 A. Yes.

1 Q. There are handwritten notations and
2 they're too numerous to go into. They're not
3 necessarily on every bill, but they are on
4 several of them.

5 As you look at these two, the bill
6 issued December 18, '98, the bill issued April
7 20, '99, there are handwritten notations.

8 Do you recognize the handwriting that is
9 on those two bills?

10 A. Yes.

11 Q. And whose handwriting is it?

12 A. It's mine.

13 Q. That is your handwriting?

14 A. Yes, it is.

15 Q. If I were to ask you the same question
16 with regard to all of the other bills I have here
17 through 2002, would your answer be the same, that
18 it is your handwriting?

19 A. Yes.

20 Q. Did anyone else make any notations on
21 these bills?

22 A. No.

1 Q. What I'd like you to do -- let me have
2 those two back just so I can keep these straight
3 and keep them in the proper folders.

4 MR. McCARTHY: Uh --

5 JUDGE RILEY: Let me finish. Just let me
6 finish.

7 Q. All right. If you would, look through
8 these bills for the year 2000 and look at the
9 notations on them.

10 Having reviewed the bills for 2000 and
11 the handwritten notations on them, is it your
12 testimony that these are also your -- these
13 notations were made by you?

14 A. Yes.

15 Q. Were any of the notations that you saw
16 made by anyone else?

17 A. No.

18 Q. All right. Let me do 2001 and hand these
19 to you and, please, if you would just take a
20 minute to look through these.

21 A. This one is not mine. I don't know. It
22 might have been at an office, a gas company

1 office.

2 JUDGE RILEY: Let the record reflect that
3 Mrs. Ballard -- excuse me -- the witness is
4 looking at a bill dated April 18, 2001, for
5 Account No. 2500020756619 which is the Faith
6 United Missionary Baptist Church. And the
7 notation is 6/19/01 80975 and 7/17/01 81015.

8 Q. You did not make that notation?

9 A. No.

10 Q. Do you know who did make that notation?

11 A. No.

12 Q. All right, then.

13 A. Maybe just a phone number. I'm not sure
14 what it is.

15 Q. In other words, yeah, we don't know who
16 made the notation or what it is.

17 Looking at the rest of them -- having
18 reviewed the rest of the bills for the year 2001,
19 were all the notations, handwritten notations on
20 those bills made by you?

21 A. Yes.

22 Q. That's with the exception of April 18,

1 2001?

2 A. Yes.

3 Q. All right. And we've just got a couple
4 more for 2002, if you would take a look at these
5 quickly and take a look at the handwritten
6 notations.

7 Having reviewed the bills, series of
8 bills for the year 2002 and having examined the
9 handwritten notations, is it your testimony that
10 all of the handwritten notations were made by
11 you?

12 A. Yes.

13 Q. And they were not made by anyone else?

14 A. Yes.

15 JUDGE RILEY: All right, then. Then the only
16 one that I would exclude at this point is the one
17 for April 18, 2001. We can't qualify that.

18 Counsel, do you still have an objection?

19 MR. McCARTHY: Let me clarify my objection
20 then, you know.

21 I have no -- I still think whatever
22 notations she's made on here are hearsay

1 notations. I don't know what they might say.
2 They might represent that she spoke with somebody
3 at Peoples Gas or whatever, and I'm troubled by
4 that. It could be double hearsay.

5 My point here is that I have no problem
6 with these being admitted into the record the way
7 they look right now. I just would ask that the
8 Judge then not take into account the extraneous
9 notations on them.

10 MR. BROOKS: No objection. We agree that any
11 notations of something other than the author and
12 the person for who the company is represented
13 here, we agree.

14 But if I may on the one that -- I think
15 it's quite -- I don't think it's misleading. I
16 don't think it would conjure up any problems or
17 anything of a prejudice nature to the Examiner.

18 MR. McCARTHY: No. Allow me to review that
19 then.

20 MR. BROOKS: To tell you the truth, I don't
21 know what --

22 MR. McCARTHY: It's a reading.

1 MR. BROOKS: It just has some dates on the
2 bottom there, and I would ask that it be used
3 because the body, the full body is of a most
4 reliable point of information.

5 JUDGE RILEY: All right.

6 MR. McCARTHY: I don't think there's an
7 objection. Or my objection, he's agreeing with
8 it, I guess. I would just ask that you take that
9 into account.

10 MR. BROOKS: If we could just acknowledge that
11 it would be stricken, the notations, because she
12 said it wasn't from her, but I would ask that it
13 be admitted for the body of the content that's up
14 above it so to speak.

15 JUDGE RILEY: So it's what your objection is
16 to the rest of these exhibits as well, just to
17 ignore the handwritten content.

18 MR. McCARTHY: Yeah, exactly. They can be
19 admitted into the record as is --

20 MR. BROOKS: I would --

21 THE REPORTER: One at a time, please.

22 JUDGE RILEY: Excuse me. This is not a

1 conversation.

2 Your objection is that the

3 Administrative Law Judge ignore the handwritten

4 notations on this exhibit.

5 Counsel, your response is?

6 MR. BROOKS: I agree. I have no objection to

7 it.

8 JUDGE RILEY: Just the admission of the

9 document itself without reference to the

10 handwritten notations.

11 MR. BROOKS: Yes.

12 JUDGE RILEY: And that they will not be used

13 in the decision in this matter.

14 MR. BROOKS: That's correct.

15 JUDGE RILEY: All right. Then I can admit the

16 documents for that purpose.

17 MR. McCARTHY: And this one too.

18 JUDGE RILEY: That would include April 18,

19 2001. Then we're going to need three copies of

20 these. So we're going to have to get that along

21 the way.

22

1 (Whereupon, Complainant's
2 Exhibit C was admitted
3 into evidence.)

4 JUDGE RILEY: But what I want to do is
5 begin the examination of your witness just so we
6 can start making some headway there because we
7 lost our 25 minutes. Okay.

8 Mr. McCarthy, if you would, would you
9 call your witness in this matter, please.

10 MR. McCARTHY: Yes. Peoples Gas calls Brian
11 Schmoldt.

12 (Witness sworn.)

13 JUDGE RILEY: Please continue.

14 BRIAN SCHMOLDT,
15 called as a witness herein, having been first
16 duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY

20 MR. McCARTHY:

21 Q. Mr. Schmoldt, can you please state your
22 name and spell your last name for the court

1 reporter?

2 A. Brian Schmoldt, S-c-h-m-o-l-d-t.

3 Q. Mr. Schmoldt, who is your employer?

4 A. Peoples Gas.

5 Q. And what do you do for Peoples Gas?

6 A. I work in special services. I review

7 billing complaints.

8 Q. Okay. And how long have you worked in

9 special services?

10 A. Four years.

11 Q. Four years.

12 And before that what did you do?

13 A. I worked in the office for two years --

14 not the office -- but our personal contact office

15 for two years, and I was a phone rep for four

16 years.

17 Q. Four years.

18 So you've been employed with Peoples Gas

19 how long now?

20 A. Ten years.

21 Q. Ten years.

22 And as an employee that works on, as you

1 said, disputes, are you very familiar with the
2 records of Peoples Gas?

3 A. Yes.

4 Q. Are you also a keeper of the records of
5 Peoples Gas?

6 A. Yes.

7 Q. Mr. Schmoldt, did you have -- pursuant to
8 your duties, have you reviewed the account
9 records of Faith United Missionary Baptist Church
10 at their location at 120 East 115th Street?

11 A. Yes.

12 Q. Mr. Schmoldt, how does Peoples Gas show
13 the address for that building?

14 A. We actually show it 116 East 115th Street.

15 Q. Okay. Mr. Schmoldt, pursuant to your
16 investigation of the complaint in this case, did
17 you prepare any summary of the account in this?

18 A. Yes.

19 Q. Is there a copy -- do you have that here
20 with you today?

21 A. Yes.

22 MR. MCCARTHY: Let me pull out the copies I

1 have here. All right.

2 Could we mark these as Respondent's

3 Exhibit 1.

4 (Whereupon, Respondent's

5 Exhibit No. 1 was marked for

6 identification.)

7 MR. MCCARTHY: Let the record reflect that

8 I'm showing the opposing party a document that's

9 been marked as Respondent's Exhibit 1 for

10 identification.

11 MR. BROOKS: Did you mark it?

12 MR. MCCARTHY: I didn't -- they did on the

13 originals. And I've also provided one to

14 Mr. Schmoldt.

15 Q. Okay. Mr. Schmoldt, do you recognize this

16 document?

17 A. Yes.

18 Q. What is it?

19 A. It's a transcript of the account.

20 Q. And when you say transcript, is it

21 basically a summary of the account?

22 A. A summary of the account, yes.

1 Q. And did you prepare this document?

2 A. Yes, I did.

3 Q. Now, what account does this transcript
4 apply to?

5 A. It applies to Faith United Church at
6 116 East 115th Street.

7 Q. And I note it's a rather long transcript.
8 Why did you pick the period that you have here
9 covered in this transcript?

10 A. This is basically the time that Faith
11 United Church started service at the address. We
12 actually have you starting service in October of
13 '98, I guess, is when you guys called to get gas
14 service in your name, all the way up until the
15 present which is October 22 of 2002 because you
16 haven't been billed yet for November.

17 Q. Okay. And, Mr. Schmoldt, if you could
18 just help us in understanding this document.
19 Let's take a particular line on the document. It
20 shows -- if you look in the main body of the
21 document, there's columns and rows. And, say,
22 for instance, Row 3, can you just go through

1 there and explain what the entries are under each
2 column in Row 3? Just start with Row 3.

3 A. Basically that was the gas bill from
4 November 13 of '98 to December 16 of '98 showing
5 that it was for 33 days of service with an actual
6 meter reading, and the bill was \$912.18.

7 Q. Okay. And then there's another column
8 after that?

9 A. There's a previous balance with a total
10 bill of \$1,080.30 for which they paid \$1,080.30.
11 So they didn't have a balance. They had a zero
12 balance according to this.

13 Q. Okay. So as of the bill for 12/16 of
14 1998, you're saying they had paid that bill, and
15 they had a zero balance?

16 A. Right.

17 Q. All right. Now, Mr. Schmoldt, you
18 referred to that there was an actual reading.
19 Can you explain to me where on the document you
20 found that and how it's identified on the
21 document?

22 A. It's the fourth column. It says reading

1 type. ACT means an actual company reading, and
2 the reading was right next to it which is Column
3 5 which is 48537.

4 Q. Okay. There are other entries within that
5 column that appear to be EST. What does that
6 stand for?

7 A. EST means that the bill was estimated. We
8 did not read the meter at that time.

9 Q. Okay. Mr. Schmoldt, if you could, can you
10 summarize maybe in sort of -- strike all that.

11 Mr. Schmoldt, can you just summarize
12 what this transcript shows certainly if you read
13 it from the top to the bottom up to the green
14 line and including the first green line across?

15 A. The yellow highlighted area represents the
16 bills that we sent the church up until any
17 adjustments were made. All those bills were
18 estimated up until 5/18/01 or 2001.

19 Q. Okay. Now, there's a green area beneath
20 that, and it looks like over in the remarks
21 column, which is the column to the far right,
22 there's some entry in there.

1 Can you please explain what that -- I'm
2 sorry, not green column but green row. Can you
3 please explain what that green row and the entry
4 in the remarks means?

5 A. This represents the adjusted bill that the
6 church received in June when we obtained a meter
7 reading on June 19 of 2001. We adjusted the bill
8 because we were underbilling the service, so they
9 got an adjusted bill.

10 Q. Okay. And did this billing make up for
11 the underbilling prior to that?

12 A. Yes.

13 Q. Now, Mr. Schmoldt, had Faith United stayed
14 current on its bills even as they were
15 underestimated?

16 A. No.

17 Q. No.

18 What was the balance on the account
19 prior to the makeup bill that you explained, the
20 adjustment?

21 A. At that time they owed \$3,223.41.

22 MR. BROOKS: Would you state that again?

1 THE WITNESS: Before we did an adjusted bill,
2 the yellow area. And then that was before any
3 payment was applied to the account.

4 JUDGE RILEY: Direct your remarks over here.
5 But what was the figure you just read off?

6 THE WITNESS: If you go to Line 29.

7 JUDGE RILEY: Line 29.

8 THE WITNESS: It says total due. And the
9 total due is \$3,223.41.

10 JUDGE RILEY: All right. And it's your
11 testimony that that was the amount that the
12 complainant owed prior to any adjustments for the
13 underbilling?

14 THE WITNESS: Right, right.

15 JUDGE RILEY: All right.

16 MR. MCCARTHY: Q And then was there a payment
17 made subsequent to that billing?

18 A. Right. And then there was a payment made
19 on June 15 of \$521 which brought the balance down
20 to \$2,702.41.

21 Q. So technically really did they owe
22 2,702.41?

1 A. Well, they really owed \$2,702.41 because
2 of the payment.

3 Q. Okay. Now, Mr. Schmoldt, can you walk me
4 through at least how Peoples Gas adjusted the
5 usage for the underestimated billings?

6 A. The usage is adjusted based on a
7 degree-day analysis.

8 Q. And, Mr. Schmoldt, does the company cancel
9 all the prior -- all the bills that were
10 estimated?

11 A. It cancels all the previous bills that
12 were estimated and then reissues new estimated
13 bills --

14 Q. Okay.

15 A. -- based on the analysis because they were
16 underbilled, so those previous bills have to be
17 readjusted.

18 Q. And, now, does that rebilling sort of
19 allocate the extra usage over the entire period?

20 A. Yes.

21 Q. Of estimates, I should say?

22 A. Yes.

1 Q. Now, Mr. Schmoldt, I'm going to turn your
2 attention to certain entries within that first
3 green line. There's an entry in credits of
4 9,005.85. What does that represent?

5 A. Yes. That represents the amount of bills
6 that we issued to the customer plus any late
7 charges that we assessed to them. We wipe out
8 the late charges, and we wipe out the original
9 bills that we sent.

10 Q. So is what you're saying -- I think what
11 you're saying is that we wipe out all the bills
12 in the yellow portion above and the late charges
13 in the yellow portion above?

14 A. Yes.

15 Q. So that \$9,005 is basically the summary of
16 those two totals?

17 A. Those two rows, yes.

18 JUDGE RILEY: Of what two rows?

19 THE WITNESS: The net bill row and the late
20 charge row.

21 JUDGE RILEY: Let me see. The net bill row
22 and the late charge row.

1 And that's cumulative?

2 THE WITNESS: Right.

3 MR. McCARTHY: Yes.

4 JUDGE RILEY: Let me ask the witness.

5 From October 9, '98, all the way down

6 through, say, May 18, '01, the net bill and the

7 late charges are all wiped out, and that total is

8 up to \$9,005.85?

9 THE WITNESS: Actually from December 16 of

10 '98.

11 JUDGE RILEY: Okay. In the yellow area only?

12 THE WITNESS: The yellow area only, those are

13 the bills that are wiped out.

14 JUDGE RILEY: Okay.

15 MR. McCARTHY: Q Why does it go back to 12/16

16 of '98?

17 A. The system goes back to the last actual

18 company reading that we did, which was on

19 December 16, of '98. That's when we did the last

20 company reading.

21 Q. Okay.

22 A. Prior to the reading on June 19 of 2001.

1 Q. Okay. So would it be right to just
2 summarize that Peoples Gas sent them a large bill
3 to make up for all the underbilling in the prior
4 two -- two and a half years?

5 A. Yes.

6 Q. And that bill amount was \$24,000, isn't
7 that right, around there?

8 A. Yes.

9 Q. And then what column is that listed in?

10 A. That would be on Line 30. The net bill
11 would be a total bill of \$24,457.71.

12 Q. And just beneath that there's a total of
13 405.80. What does that represent?

14 A. That represents what the current bill was
15 for May, from May 18 to June 19.

16 Q. So the system breaks it into two parts,
17 does it? It does all the prior bills and then
18 the most recent month separately?

19 A. Right, yes.

20 Q. It just shows you part of the allocation;
21 is that right?

22 A. Yes.

1 Q. Okay. Now, this billing, rebilling also
2 gave them credit for the payments they made to
3 date?

4 A. Yes.

5 Q. Now, Mr. Schmoldt, I take your attention
6 to the next green area downward on this document.
7 It starts with Row 36 and ends with Row 45. Why
8 is that green? What does that represent?

9 A. That represents the adjusted bill that I
10 issued to the church based on a conversation I
11 had with Ms. Ballard. I talked to her on several
12 occasions, and I think I might have talked to the
13 Reverend once. I can't remember for sure. But I
14 mostly talked to Ms. Ballard. And we adjusted
15 the bill based on 280; that we could only hold
16 them responsible for two years of usage for us
17 not reading the meter for that period of time.

18 Q. Okay. Now, is it true that we only hold
19 them -- isn't it true that Part 280 says you
20 cannot recover your underbilling more than two
21 years back?

22 A. Right, yes.

1 Q. So you get to keep all your billing prior
2 to that time, but to the extent you underbilled
3 for more than two years, you can only go back two
4 years?

5 A. Yes.

6 Q. Okay. Is that what you did?

7 A. Yes.

8 Q. And, again, did you give them a credit
9 that wiped out all the prior bills?

10 A. Yes.

11 Q. Okay. And where is that shown on this
12 document?

13 A. It's actually Line 36 where it says
14 credits of \$26,802.90.

15 Q. Okay. And that wiped out -- what rows did
16 that wipe out, Mr. Schmoldt, as far as the bills,
17 you know?

18 A. Well, it went all the way back -- it went
19 all the way back to December 16 of '98. So it
20 backed all the way -- we went all the way back to
21 the beginning, the first reading, December 16 of
22 1998.

1 Q. Right. But you had rebilled that already,
2 so did it --

3 A. Well, we wiped out the original balloon
4 bill that they received for the adjustment
5 because there was no -- it was just adjusting the
6 billing.

7 Q. Okay. Okay. This is a little confusing,
8 I think.

9 What bills by row number and late
10 charges by row number were eliminated with that
11 \$26,000 credit?

12 A. Actually Line 4 all the way to Line 35.

13 JUDGE RILEY: Okay. Hold on.

14 THE WITNESS: All these.

15 MR. McCARTHY: Q Were these not wiped out
16 earlier?

17 A. Yes.

18 JUDGE RILEY: I'm thoroughly confused.

19 This \$26,802 reflects a credit for what
20 lines again?

21 THE WITNESS: Okay. It's Lines 31, 32, 33,
22 34, 35, and Line 30.

1 JUDGE RILEY: Okay. It wipes out Lines 30 --
2 THE WITNESS: Through 35.
3 MR. McCARTHY: Q And it wipes out -- I'm
4 sorry. I didn't know you were going to ask.
5 JUDGE RILEY: I know.
6 And in what columns are the charges that
7 get wiped out? Is that the net bill and the late
8 charge?
9 THE WITNESS: Yes. The net bill and the late
10 charges, yes.
11 JUDGE RILEY: Sorry, counsel. Go ahead.
12 MR. McCARTHY: That's all right. I'm
13 stumbling all over you.
14 Q. Now, Mr. Schmoldt, there's a big entry in
15 the remarks column at the end of Rows 36 through
16 45. Can you walk me through that, what that
17 means in plain English?
18 A. Again, that's going back to adjusting the
19 bill for unbilled service per Rule 280.
20 Q. Okay.
21 A. Where we can only hold the customer
22 responsible for two years of usage. And then the

1 other years, their bills go back the way they
2 were. We can't adjust those bills. Those bills
3 stay the way they were. We can't charge them
4 extra.

5 Q. And does that indicate -- these credits,
6 did they give them credit for the payments they
7 made to date?

8 A. Yes.

9 Q. Now, one thing I note is that it looks
10 like -- and there's an entry. In the remarks
11 column it says, the customer -- wait. I'm sorry.
12 It says, Lines 37 through 44 show how the
13 rebilling was allocated over the period in
14 question. And I note that it also says Lines 37
15 and 40 grouped multiple- month periods together
16 to reduce the bill. What does that mean?

17 A. Well, basically on Line 40 we're
18 adjusting -- we're giving them the two-year
19 adjustment period, so that would be -- June 19,
20 '99, to June 19, '01, would be the two-year
21 adjustment period for 734 days.

22 Q. Okay. You can see that. That's on

1 Line 40, and it shows -- so you clumped a bunch
2 of bills together; is that right?

3 A. Yes.

4 Q. Now, do you normally, when you do this,
5 you allocate it month by month by month over the
6 whole period; is that right?

7 A. We can do either/or. We can either lump
8 it in one lump sum or, if the customer requests
9 it, we can bill it month by month. We try to
10 give the customer the benefit of the doubt.
11 We're trying to give them the cheaper bill, which
12 would be cheapest for them.

13 Q. Okay. So when you lumped that group
14 together on Line 40 -- and it also looks like
15 there's Line 37, that that has a period of 123
16 days which is a long time. That was an attempt
17 to reduce the impact of this bill?

18 A. Yes.

19 Q. Reduce the amount of it?

20 A. Yes.

21 Q. Now, Mr. Schmoldt, one thing that's a
22 little unclear here is it looks like Line 36 has

1 sort of a summary of Lines 37 through 45 -- no --
2 I'm sorry -- 37 through 44 beneath it; isn't that
3 right?

4 A. Yes.

5 Q. So that's a tally. Is Line 36 basically a
6 tally of the charges that accrued over the period
7 shown by Lines 37 through 44?

8 A. Yes.

9 Q. Okay. So it's just to show how it was
10 allocated over the period?

11 A. Correct.

12 Q. Thank you.

13 And you stated before they got credit
14 for the payments that they made?

15 A. Yes.

16 Q. Now, Line 45 I see is another line that
17 has charges going all the way across. What does
18 that Line 45 show?

19 A. Line 45 shows the next estimated bill that
20 we sent the customer. After we did the
21 adjustment, it was actually adjusted a month
22 after the meter reading.

1 Q. You actually did another month's bill with
2 that adjustment?

3 A. Yes.

4 Q. And that's what Line 45 represents?

5 A. Correct.

6 Q. Okay. Now, Mr. Schmoldt, I'm going to
7 turn your attention to Row 48. Row 48 has
8 remarks in it. Can you please explain to me what
9 those tell you?

10 A. Basically that's telling me that on
11 February 14 of 2002 we changed the meter per the
12 customer's request. And we had that meter tested
13 to make sure it was working accurately.

14 Q. Okay. Let's see here.

15 Okay. And then when you -- I note that
16 after that, it looks like in the reading type
17 column everything is ACT, ACT, ACT, ACT after
18 that point in time?

19 A. Right.

20 Q. Why is that?

21 A. We gave them -- when we installed the new
22 meter, the new meter had a remote reading device,

1 so it gets actual readings every month instead of
2 these estimates so we don't have the same problem
3 again in the future.

4 Q. Okay. Was Faith United offered time to
5 pay for this bill?

6 A. Yes.

7 Q. How much?

8 A. 24 months.

9 Q. 24 months?

10 A. (Nodding head up and down.)

11 Q. Why 24 months?

12 A. Because that's the period of time we
13 estimated the bills.

14 Q. Okay. Or is that the period of time we
15 were recovering the underestimated bills?

16 A. Recovering the underestimated bills. We
17 could have gave them a little bit longer, maybe
18 30 months to pay.

19 Q. Now, would that have been without
20 interest?

21 A. Without interest, yes. No interest
22 charges.

1 Q. And originally their account was adjusted
2 to put them on that arrangement, wasn't it?

3 A. Yes.

4 Q. But they've told us that they -- did
5 anybody tell you that they didn't want the
6 arrangement anymore?

7 A. Yes.

8 Q. Okay. Who was that?

9 A. That was Ms. Ballard.

10 Q. So did you cancel that arrangement?

11 A. I didn't cancel it; somebody else
12 cancelled it.

13 Q. Okay. So, now, if you could for me, what
14 is the total due and owing as of the most recent
15 bill?

16 A. \$17,404.78 which is Line 56.

17 JUDGE RILEY: \$17,000 --

18 THE WITNESS: \$17,404.78.

19 JUDGE RILEY: And that is as of when?

20 THE WITNESS: As of October 22 -- I'm sorry.
21 November 4. November 4.

22 JUDGE RILEY: November 4.

1 THE WITNESS: Because they made a payment on
2 November 4.

3 JUDGE RILEY: All right. Continue.

4 MR. McCARTHY: Let me just see if I have
5 anything else in here.

6 Q. Now, I'd like to turn your attention.
7 There are a couple notations earlier on in the
8 document that I skipped over just to hopefully
9 tell it more clearly although some people might
10 doubt that I did and they are in rows -- I
11 believe it's Row 11 and Row 15 in the credits
12 portion. Row 14. So 11 and 14. And then
13 there's remarks associated with those same rows.
14 Can you explain to me what those tell you?

15 A. Row 11 was deposit interest applied to the
16 account because the church paid a deposit, and we
17 give them interest on the deposit at the end of
18 the year, and we gave them interest.

19 JUDGE RILEY: Where are you looking?

20 THE WITNESS: Where it says credit on Row 11.

21 JUDGE RILEY: That's actually a column, isn't
22 it?

1 THE WITNESS: Yes.

2 MR. MCCARTHY: I'm sorry, yeah.

3 JUDGE RILEY: Column 11 I've got as Total Due.

4 Hold on. You've got reading dates as one column;

5 is that correct?

6 THE WITNESS: You want to go where it says

7 Previous Balance and then Credits.

8 JUDGE RILEY: Right. I see it.

9 THE WITNESS: That's the row where they got

10 interest from a deposit that they paid.

11 JUDGE RILEY: Okay.

12 MR. MCCARTHY: Q And what was the amount of

13 that?

14 A. \$15.97.

15 Q. And then on the -- there looks to be

16 another entry on Line 14.

17 A. And then a couple months -- basically

18 three months later, we gave them their deposit

19 back. And the deposit was applied to the bill as

20 a payment at that time which is still in the same

21 row, in the credit row, which was \$467.35. That

22 was the deposit plus interest.

1 Q. So they did have a deposit, and we did
2 apply it to their account?

3 A. Yeah. We gave it back to them, but we
4 applied it to the bill.

5 Q. With interest?

6 A. With interest.

7 Q. Okay. All right. Is there any deposit on
8 the account now?

9 A. That I could see, no. I didn't see any
10 deposit now on the account.

11 MR. McCARTHY: All right. I have nothing
12 further on this document. I don't know whether
13 you want to ask him questions before I move on to
14 anything else that we have.

15 JUDGE RILEY: Complete your direct
16 examination.

17 MR. McCARTHY: All right.

18 Q. Mr. Schmoldt, did you search the records
19 of Peoples Gas for indications of calls or visits
20 to the premises?

21 A. Yes.

22 Q. And were there any records that

1 indicated -- strike that.

2 In your review of the records, did you

3 see any calls regarding leaks?

4 MR. BROOKS: Regarding what did you say?

5 MR. McCARTHY: Leaks.

6 MR. BROOKS: Leaks. Okay.

7 THE WITNESS: No. I didn't see anything.

8 MR. McCARTHY: Q If there had been a leak

9 call, would it have been noted in the record?

10 A. Yes.

11 Q. Mr. Schmoldt, I think in your testimony, I

12 believe, you testified that the meter was removed

13 from the premises on February 14 of 2002 and

14 tested?

15 A. Yes.

16 Q. Does Peoples Gas have a record showing

17 that test?

18 A. Yes.

19 MR. McCARTHY: All right.

20 JUDGE RILEY: I'm sorry. Which was tested,

21 the new meter or the old one?

22 THE WITNESS: The old meter.

1 JUDGE RILEY: Okay.

2 MR. McCARTHY: And I'd like to have these

3 marked as Respondent's Exhibit 2 if I could.

4 (Whereupon, Respondent's

5 Exhibit No. 2 was marked for

6 identification.)

7 MR. McCARTHY: Let the record reflect that

8 I'm showing the opposing party a document that's

9 been marked as Respondent's Exhibit 2 for

10 identification and providing a copy to

11 Mr. Schmoldt.

12 Q. Mr. Schmoldt, do you recognize this

13 document?

14 A. Yes.

15 Q. What is it?

16 A. This is the copy of the test that was done

17 on the old meter.

18 Q. Okay. How do you know it's the old meter?

19 A. By the meter number.

20 Q. Okay.

21 A. Which was 1585614.

22 Q. Is that number referenced in any other

1 document?

2 A. No, not that I -- it might be.

3 Q. Okay.

4 A. I don't know if I put it on the transcript
5 or not. I can't remember for sure.

6 Q. It might be on the transcript?

7 A. It might be.

8 Q. Would anything help you refresh your
9 recollection?

10 A. Yes.

11 Q. What?

12 A. The transcript.

13 Q. Okay. Go ahead.

14 A. Yes. It's on the upper portion of the
15 transcript. It's in real small writing on the
16 transcript itself.

17 Q. Respondent's Exhibit 1.

18 A. Respondent's Exhibit 1.

19 It says the name of the customer which
20 is Faith United Church. And then to the right of
21 that is the account number, and then below that
22 is the meter number. The first meter is actually

1 the new meter that we set there, and then the
2 next number is the old meter.

3 Q. Okay. Now, Mr. Schmoldt, where is the
4 meter number referenced on Respondent's Exhibit
5 2?

6 A. On the upper right-hand side of the
7 document.

8 Q. And under what heading?

9 A. Equipment ID.

10 Q. Okay. Now, what does this record tell
11 you?

12 A. Okay. The record tells me that the meter
13 was tested on 2/25 of 2002 and that the meter
14 passed the test. And that's where it says
15 in-test on the left-hand side of the document.
16 You'll see it says in-test. And in-test is the
17 test of the meter, accuracy of the meter.

18 Q. Okay. And when you say pass, did it meet
19 the Commission standards?

20 A. It met the standards set forth by the
21 Illinois Commerce Commission.

22 Q. Okay. All right. Mr. Schmoldt, do

1 Peoples Gas -- strike all that.

2 Mr. Schmoldt, in your search of the
3 records of Peoples Gas' visits to the premises,
4 were there any records showing that Peoples Gas
5 went there about a billing inquiry?

6 A. Yes.

7 Q. All right. Okay. How many times did the
8 records show that we went there for a billing
9 inquiry?

10 A. Once.

11 Q. Okay. Do you know what the date of that
12 was?

13 A. I don't remember the exact date, no.

14 Q. Okay. Would anything help refresh your
15 recollection?

16 A. Yes.

17 Q. Would you like to see -- what would that
18 be?

19 A. The actual dates -- the documents showing
20 the stops that we made at that time.

21 Q. Okay. Let me provide you copies of some of
22 Peoples Gas' records. Please tell me if you

1 see --

2 A. I'm sorry. Actually we went out there
3 twice, once on July 17 of 2001 and another time
4 on October 25 of 2001.

5 Q. Okay. And did Peoples Gas find anything
6 wrong?

7 A. According to the report by the service
8 person, no.

9 MR. McCARTHY: Okay. Okay. Let's do this. I
10 would like to mark two documents.

11 JUDGE RILEY: Go ahead.

12 MR. McCARTHY: For entry into the record.
13 These would be Respondent's Exhibits 3 and 4.

14 (Whereupon, Respondent's
15 Exhibit Nos. 3-4 were marked
16 for identification.)

17 MR. McCARTHY: Okay. Let the record
18 reflect that I've provided a copy of Respondent's
19 Exhibit No. 3 and No. 4 for identification and
20 provided a copy of the same to Mr. Schmoldt.

21 Q. Mr. Schmoldt, showing you documents that
22 are marked as Respondent's Exhibit 3 and

1 Respondent's Exhibit 4, do you recognize those?

2 A. Yes.

3 Q. What are those?

4 A. Those are reports of the service person

5 when he made the stop.

6 JUDGE RILEY: I'm sorry? Those are reports

7 of --

8 THE WITNESS: Of the stop of the service

9 person.

10 JUDGE RILEY: Of the -- I didn't get the word.

11 THE WITNESS: Service person.

12 JUDGE RILEY: Reports of the --

13 THE REPORTER: Stop.

14 THE WITNESS: Of the stop.

15 JUDGE RILEY: Of the stop.

16 MR. McCARTHY: Q Do you mean a visit to the

17 premises?

18 A. A visit to the premise by the service

19 person. I'm sorry.

20 JUDGE RILEY: That's okay. Go ahead.

21 MR. McCARTHY: Q And can you just summarize

22 for me what Respondent's Exhibit 3 shows?

1 A. On July 17, 2001, the service person
2 reported that he found -- he didn't find any
3 problems. He said the gas -- let's see.
4 Customer not satisfied with results of
5 investigation and would like to receive a
6 follow-up investigation, having meter tested
7 after he received the print tin (sic) for over
8 three years -- three weeks. Found some -- I
9 can't read all of it -- found some of his
10 appliances, I guess.

11 JUDGE RILEY: What are you reading from?

12 THE WITNESS: The second page. It kind of
13 reviews the remarks because the remarks are real
14 small on the first page. So if you go to the
15 second page, it's actually fuller remarks.

16 MR. MCCARTHY: Q So a service person went to
17 the premises, didn't find anything wrong, and
18 stated that the customer wanted another visit?

19 A. Yes.

20 Q. Is that right?

21 A. Yes.

22 Q. Okay. Turning your attention to

1 Respondent's Exhibit No. 4, what does that
2 document tell you?

3 A. A service person went there on October 25
4 and reported that the address of the building
5 covers 116 to 132. This is a church and is only
6 used on Saturday and Sunday for services,
7 sometimes on Wednesday. The range is newly
8 installed as of that date. It was installed in
9 October according to the service report. And he
10 didn't find anything unusual when he went there.

11 MR. BROOKS: Installed when?

12 THE WITNESS: On October 25 he's saying that
13 their new range was already put in at the
14 premise. So it might have been put in a couple
15 days before or the same day. He just said there
16 was a new range in there.

17 MR. McCARTHY: Q Okay. So would it be safe
18 to summarize that Peoples Gas did go to the
19 premises twice and didn't find anything wrong?

20 A. Yes.

21 Q. All right. Now, Mr. Schmoldt -- I've got
22 the wrong copy of this. I'm just going to use --

1 all right.

2 Mr. Schmoldt, let me show you a document
3 that's been marked as Complainant's Exhibit A.
4 It purports to be a Gas Bill Analysis that the
5 complainant prepared.

6 Drawing your attention to that document,
7 Mr. Schmoldt, the bill amounts on that document,
8 do they show the amounts that Peoples Gas is
9 actually seeking from the complainant?

10 A. No.

11 Q. Comparing that, if you would, to
12 Respondent's Exhibit No. 1, what is wrong with
13 the bill amounts shown on Complainant's Exhibit
14 A?

15 A. The one thing that I can see that's wrong
16 is that other than saying that, you know -- this
17 was the bill that we did send them, but it
18 doesn't say if this was the total amount due at
19 the time. It's just saying these are the amounts
20 that we billed them, but it doesn't give a total
21 amount due. I just says, you know, we sent them
22 a bill for \$500. It doesn't say they owed

1 anything additionally other than just the \$500.

2 Q. And, Mr. Schmoldt, can you tell by looking
3 at that and Respondent's Exhibit No. 1 whether
4 those are the active bill amounts on the account?

5 A. Repeat that.

6 Q. Mr. Schmoldt, can you tell by reviewing
7 Complainant's Exhibit A and the entries in
8 Complainant's Exhibit A against Respondent's
9 Exhibit No. 1 as to whether any of these bills
10 are cancelled bills?

11 A. No.

12 Q. Okay. Perhaps I should turn your
13 attention.

14 Respondent's Exhibit A, Mr. Schmoldt, on
15 the date of 12 -- for 4/18 of '99, what does
16 Complainant's Exhibit A show for the bill amount?

17 A. For April. \$597.49.

18 JUDGE RILEY: I'm sorry? 529 --

19 THE WITNESS: 597.49.

20 JUDGE RILEY: 597.49. All right.

21 MR. MCCARTHY: Q Mr. Schmoldt, turning your
22 attention again to Respondent's Exhibit No. 1,

1 what row on Respondent's Exhibit No. 1 applies to
2 that bill?

3 A. It would be Line 4.

4 Q. Okay. And Line 4 is yellowed out on this
5 document, isn't it, Mr. Schmoldt?

6 A. Yes.

7 Q. Why is it yellowed out?

8 A. Because those were the bills that we
9 adjusted.

10 Q. So those are no longer -- that was a
11 cancelled bill --

12 A. Yes.

13 Q. -- is that right?

14 A. That was a cancelled bill, yes.

15 Q. So in this document, Complainant's
16 Exhibit A, if you review some of the other
17 amounts in there, do they also reference
18 cancelled bills?

19 A. Yes.

20 Q. Okay. And would it be right to say that
21 this shows -- it may not be representative --
22 Complainant's Exhibit A may not be representative

1 of their actual usage at the premises because it
2 shows cancelled bills?

3 A. Correct.

4 Q. So in other words, is it showing the bills
5 that were underestimated?

6 A. Yes.

7 MR. MCCARTHY: Okay. Thank you. No further
8 questions.

9 JUDGE RILEY: Okay.

10 MR. MCCARTHY: Wait. I'm sorry. I wanted to
11 do a foundation. I've got to admit my documents.

12 JUDGE RILEY: Okay.

13 MR. MCCARTHY: Sorry.

14 JUDGE RILEY: Okay. But that completes your
15 direct testimony?

16 MR. MCCARTHY: Yes, that will.

17 Q. Mr. Schmoldt, turning your attention back
18 to Respondent's Exhibits 2, 3 and 4, okay, do
19 those documents -- were they made by persons --
20 Peoples Gas personnel with knowledge of the
21 events reflected?

22 A. Yes.

1 Q. And were they made at or near the time of
2 the events recorded in them?

3 A. Yes.

4 Q. Were they made in the ordinary course of
5 Peoples Gas' business?

6 A. Yes.

7 Q. Were they kept in the ordinary course of
8 Peoples Gas' business?

9 A. Yes.

10 Q. Okay. Now, turning your attention to
11 Respondent's Exhibit No. 1, that's this document,
12 did you use Peoples Gas' records to prepare
13 Respondent's Exhibit No. 1?

14 A. Yes.

15 Q. And did you accurately transfer the
16 information from Peoples Gas' records onto this
17 Respondent's Exhibit No. 1?

18 A. Yes.

19 Q. And were the underlying records that you
20 used to prepare this document made by persons
21 with knowledge of the events recorded in them?

22 A. Yes.

1 Q. And were they made at or near the time of
2 the events recorded in them?

3 A. Yes.

4 Q. And were they made in the ordinary course
5 of Peoples Gas' business?

6 A. Yes.

7 Q. And were they kept in the ordinary course
8 of Peoples Gas' business?

9 A. Yes.

10 MR. McCARTHY: I move that Respondent's
11 Exhibits 1 through 4 be admitted into evidence.

12 JUDGE RILEY: Okay.

13 MR. McCARTHY: As business records and a
14 summary of business records.

15 JUDGE RILEY: Counsel?

16 MR. BROOKS: I object to Exhibit 2. We have
17 three individuals -- no, no. No objection.

18 JUDGE RILEY: Okay.

19 MR. McCARTHY: One further thing. I wanted to
20 clarify something here. We stated before -- and
21 I guess I could do this in the form of a question
22 before I close out Mr. Schmoldt because it will

1 help clarify this case or what we're offering.

2 Q. Mr. Schmoldt, does Peoples Gas continue to
3 offer to the complainant two years at no interest
4 to pay the amounts --

5 A. Yes.

6 Q. -- shown on Respondent's Exhibit No. 1?

7 A. Yes.

8 JUDGE RILEY: First of all, with regard to
9 Exhibits 1 through 4, they are admitted into
10 evidence without objection.

11 (Whereupon, Respondent's
12 Exhibit Nos. 1-4 were
13 admitted into evidence.)

14 JUDGE RILEY: Now, Mr. Schmoldt, just a
15 couple of things.

16 EXAMINATION

17 BY

18 JUDGE RILEY:

19 Q. Is it my understanding with regard to
20 Respondent's Exhibit 1 that the initial large
21 yellow area represents a whole series of
22 estimated bills that Peoples Gas decided it had

1 underestimated the amounts due and had eventually
2 eviscerated or wiped out those bills and issued a
3 subsequent bill based upon more accurate
4 readings?

5 A. Yes.

6 Q. Was the subsequent bill that was issued
7 based upon an actual reading?

8 A. Yes.

9 Q. What happened -- now, the amounts that
10 were paid on those estimated bills that are in
11 that large yellow shaded area, that's the
12 \$9,005.85; is that correct?

13 A. No. It actually represents the bills that
14 we cancelled out, and then it also -- it should
15 also represent any payments that were applied to
16 the bills.

17 Q. All right. Then let me start again.

18 A. I understand what you're saying. It's
19 just --

20 Q. It's not clear in my mind yet. That's the
21 problem.

22 The amount of \$9,005.85, does that

1 represent payments made or just amounts that were
2 placed on a bill?

3 A. It represents the net bill.

4 Q. All right. The net bill.

5 A. And late payments charge.

6 Q. Now, what is the net bill? Is that the
7 amount that was simply sent to the church, or was
8 that the amount that was actually paid by the
9 church?

10 A. The amount that was sent to the church.

11 Q. Sent to the church.

12 So it could be any amount that was paid
13 on that?

14 A. Yes.

15 Q. Okay. So the \$9,005.85 -- in other words,
16 \$9,005.85 is a total of something in here?

17 A. Yes.

18 Q. It's a total of the net bill in the yellow
19 shaded area plus the late charges?

20 A. Correct.

21 Q. Okay. And those are the amounts that were
22 sent to the complainant?

1 A. Yes.

2 Q. All right. And that amount of \$9,005,
3 that was credited?

4 A. Yes.

5 Q. Against the subsequent bill that was sent
6 out based on an actual reading?

7 A. Yes.

8 Q. Even though that \$9,005.85 may not have
9 been paid in its entirety; in other words, there
10 might have only been 4 or 5 or \$6,000 paid on it?

11 A. Right.

12 Q. So the whole thing was credited
13 regardless?

14 A. Regardless, yes.

15 Q. The amount that was subsequently sent out
16 after those charges had been wiped out, was that
17 the \$26,802.90?

18 A. No. That was the -- if you're going on
19 Line 30, it would be \$18,154.27.

20 Q. Okay. That was the amount that was --

21 A. That was prior to any -- that was prior to
22 the new bill that was then issued on June 19

1 which was an additional \$405.80.

2 Q. That's the 18,650 that we're talking
3 about?

4 A. 18,560.07.

5 Q. 560.07, right.

6 There it is. And the 18,560.07 reflects
7 an additional \$405.80?

8 A. Right.

9 Q. All right. I had one other question, and
10 I don't know if I can remember what it was, but
11 it had something to do with these last two
12 exhibits. I know what I wanted to ask you.

13 On Respondent's Exhibit 4, it identifies
14 Meter No. 1585614.

15 A. Uh-huh.

16 Q. Okay. That was prior to -- that was the
17 correct meter at the time of October 25, 2001?

18 A. Yes.

19 Q. All right. Because the meter hadn't been
20 replaced until February 14 of 2002?

21 A. Correct.

22 Q. My final question was, you've got an

1 account number in Respondent's Exhibit No. 1,
2 2500020756619?

3 A. Yes.

4 Q. Is that the same account number --

5 A. Yes.

6 Q. -- throughout this entire period?

7 A. Well, no. Let me just clarify. When we
8 -- we switched computer systems, so we gave
9 everybody brand new account numbers.

10 Q. Okay.

11 A. She can call in the old account number and
12 it still would come up with the current record,
13 but we just gave her a new account number.
14 Everybody got a new account number.

15 Q. When did that happen? When did that
16 switch over?

17 A. February 14 of 2000.

18 Q. Oh, same day the meter was replaced?

19 A. No. 2000.

20 Q. 2000. I'm sorry.

21 A. 2000. That's when we changed everything.

22 Q. But the new account numbers reference the

1 old account numbers?

2 A. Yes.

3 JUDGE RILEY: That's everything I have right
4 now.

5 Counsel, did you want to begin your
6 cross-examination?

7 MR. BROOKS: Yes.

8 JUDGE RILEY: As a matter of fact, why don't
9 we take five.

10 (Whereupon, a recess was taken.)

11 JUDGE RILEY: Q Mr. Schmoldt, going back
12 to Respondent's Exhibit 1, the \$18,154.27 was the
13 bill that was issued based upon actual readings
14 after the other bill estimates were credited and
15 wiped out?

16 A. Yes, yes.

17 Q. My question is, you had testified earlier
18 that because of the new meter -- when the new
19 meter was put in, it had some kind of a remote
20 device on it that gave you the actual readings?

21 A. Yes.

22 Q. It's like a computerized thing that they

1 can just --

2 A. Drive by and pick it up.

3 Q. Right. Oh, they can drive by?

4 A. Yes.

5 Q. So, in other words, these personnel are

6 still going out to the address?

7 A. Yes.

8 Q. Okay. And what was the 405.80 that was

9 added to the 18,154; was that actual usage?

10 A. Well, we did the meter reading on 6/19.

11 Q. Right.

12 A. That was the actual date we did the meter

13 reading. So with the adjusted bill, we're saying

14 for May until June, the bill was, you know, for

15 \$405.80.

16 Q. Okay. Right. So it was based upon a

17 meter reading?

18 A. Right.

19 Q. And the 18,154.27 --

20 A. Well, it's based on that reading took on

21 June 19 because it adjusts all the way back.

22 Q. Okay. Well, wouldn't that also be just

1 based on an estimate?

2 A. Well, yes. May 18 is technically an

3 estimated bill.

4 Q. The May 18?

5 A. Right. Line 30 where you're looking at in

6 the green.

7 Q. Right.

8 A. Right. That would be estimated.

9 Q. Which figure is estimated?

10 A. The 18,154.27.

11 Q. Okay. And that was estimated all the way

12 back to the top of the yellow area again?

13 A. Correct.

14 Q. That was back to 12/16/98?

15 A. Correct.

16 Q. It just reflects what Peoples feels is a

17 more accurate adjustment?

18 A. Yes.

19 Q. More accurate estimate?

20 A. More accurate estimate.

21 Q. Is it correct for me to say that the

22 405.80 that was added to that is just additional

1 usage for that period --

2 A. Yes.

3 Q. -- from May 18, '01, to 6/19/01?

4 A. Yes.

5 JUDGE RILEY: That's everything I have.

6 Counsel, he's your witness.

7 MR. BROOKS: All right.

8 CROSS-EXAMINATION

9 BY

10 MR. BROOKS:

11 Q. Mr. Schmoldt, I won't pronounce that

12 correctly.

13 A. Just say Brian.

14 Q. Brian, if you don't mind.

15 A. No, I don't mind.

16 Q. Okay. You testified to your familiarity

17 with these figures and the calculations, is that

18 correct, of Respondent's Exhibit No. 1?

19 A. Yes.

20 Q. And did you participate in the actual

21 computations and calculations of it?

22 A. Yes.

1 Q. Okay. So then for all intents and
2 purposes, you are an expert on what is owed by
3 the Faith United Missionary Baptist Church to
4 Peoples Light and Gas as far as the gas bill is
5 concerned; is that correct?

6 A. Uh-huh, yes.

7 Q. Could you in your expert opinion --

8 (Brief interruption.)

9 JUDGE RILEY: Please proceed.

10 MR. BROOKS: Q Could you tell us why they owe
11 such a large amount of money?

12 A. Basically the bills were underestimated.

13 Q. And now does interest play a part,
14 interest or penalties play a part in this, would
15 you say?

16 A. No.

17 Q. And of the large amount of -- I think
18 it's -- is that 17,000?

19 A. 18,000, in the green area.

20 Q. Green area. \$18,154.27.

21 A. Uh-huh.

22 Q. What percentage of that would you estimate

1 is interest and penalties?

2 A. Zero.

3 Q. Also in this exhibit there is a column

4 showing the net bill from October '98, October 9,

5 1998, all the way down through April 18, to the

6 30th line, from Line 1 down to Line 30?

7 A. Right.

8 Q. That shows the net bill; is that correct?

9 A. Right.

10 Q. Through --

11 A. Our read bill, that would be the net bill.

12 Q. Is there a column to show what was

13 actually paid during that same period by Faith

14 United on this chart at all?

15 A. No. There isn't a column to show what

16 they paid, no.

17 Q. Okay. Do you have anything to suggest

18 what they paid?

19 A. Well, basically anything that they paid --

20 because they only had a balance owing at the time

21 of \$2,702.41. That was the difference that they

22 owed which would be the previous balance.

1 Q. Okay.

2 A. Okay. And then we're backing out 9,005.85
3 which is the net bills plus any late charges we
4 charged them. All that is taken off the bill.
5 So they are, in essence, given credit for any
6 payments that they made.

7 Q. Okay.

8 A. We just don't separate and say you paid
9 this. Everything is just wiped out clean, so
10 they get credit for any payments. Now, if they
11 didn't pay any payments, their balance would be
12 more.

13 Q. Now, you also testified that there were no
14 leaks or malfunctions of any equipment after
15 examination by the meter readers or examiners for
16 the Peoples Light and Gas Company over time; is
17 that correct?

18 A. There are no leaks reported, no. Correct.

19 Q. Was there a meter taken out and another
20 meter replaced?

21 A. Yes.

22 Q. Why was that?

1 A. Per the customer's request, she wanted the
2 old meter tested. And we also wanted to put a
3 new meter in so we can get readings because we
4 weren't reading the meter for the customer. So
5 we wanted to get her a meter where we can read it
6 all the time for them.

7 Q. Is this amount unusual for an --

8 (Brief interruption.)

9 JUDGE RILEY: Proceed.

10 MR. BROOKS: Q Brian, how many months would
11 you estimate that the bills were underestimated
12 during the course of the gas usage by Faith
13 United?

14 A. It was approximately 30 months.

15 Q. Okay. Now, on your analysis I notice
16 below Line 30 in the column that says net bill,
17 there is an amount in the same column as May 18,
18 '01 --

19 A. Uh-huh.

20 Q. -- that says \$405.80.

21 A. Uh-huh.

22 Q. That's in the column that says net bill.

1 Now, we showed you earlier the analysis
2 as so provided in Exhibit A by the complainant
3 for the year 2001, and it was for June of 2001.
4 Did it not also read \$405.80?

5 A. Uh-huh, yes.

6 Q. So that means that that amount was
7 reflected -- the amounts that you have here have
8 been reflected on the gas bills that were issued
9 to Faith United Missionary Baptist Church; is
10 that correct?

11 A. Yes.

12 Q. Okay. Are you stating for the record that
13 Faith United Missionary Baptist Church had
14 records -- had knowledge of these amounts by the
15 records that you issued to them over the course
16 of the years of gas that's been used there?

17 A. If they kept records, yes.

18 Q. Okay. Now, if we're talking about
19 30 months and the average -- okay -- and the
20 average gas usage -- well, let's hypothesize.

21 If the average gas usage for Faith
22 United is somewhere between 4 and maybe \$500 a

1 month, between 400 and maybe \$500 a month, and
2 that's multiplied by 30 months, would you still
3 be somewhere in the area of 18,000 like we have
4 here or -- I mean, I don't see how -- I don't
5 know how it adds up.

6 MR. McCARTHY: Objection. We need a question.

7 MR. BROOKS: Excuse me.

8 MR. McCARTHY: That's okay.

9 MR. BROOKS: Q Are you stating for the record
10 that the underestimated gas usage reflects a
11 period of time when gas was used that was far
12 more than what's used now?

13 I mean, do you think that the Faith
14 United Missionary Baptist Church must use a lot
15 less gas than what they used in the period where
16 they -- this 30 months that you're talking about
17 that there was such a large underestimated
18 amount?

19 A. I'm not quite sure -- are you saying that
20 they should have used more gas than what we
21 billed them?

22 Q. Are they using less gas now, or was it --

1 they made payments, you give them credits, but
2 we're still talking about \$17,000. And if the
3 number of gas bills that they have seldom exceeds
4 more than \$500, maybe give or take five or six
5 months, and you have given them credit, how did
6 they get up to \$18,000? You have the figures
7 here, but are we missing something? I don't
8 know.

9 A. Well, the gas bills were grossly
10 underestimated. So when we got the meter
11 reading, we adjusted it based on the meter
12 reading to the previous meter reading which was
13 back in December -- December of '98 was the last
14 time we read the meter prior to the June 19 of
15 2001 meter reading.

16 Q. But your bills, your gas bills show that
17 the average gas bill, if you took all the figures
18 together, does not exceed \$600. And if we're
19 talking about a whole 30 months and you add the
20 math together, how do we still get \$17,000?

21 A. Well, the difference between what is owed
22 and what is paid.

1 Q. Is there --

2 A. Like I said, since the bills were

3 underestimated, they weren't paying the exact

4 amount that was due.

5 Q. Is there an interest amount taken for late

6 bills? Is there interest of 5 percent, 9

7 percent, 8 percent?

8 A. No, no. On the bill -- a late payment on

9 the bill is 1.5 percent.

10 Q. Per month?

11 A. Per month.

12 Q. As long as it's outstanding?

13 A. As long as it's outstanding.

14 Q. And it goes back to the first month that

15 it was --

16 A. On the past due balance, right. It just

17 accrues on the past due balance.

18 Q. So is it fair to say that eventually you

19 have a compounded interest bill?

20 A. Only if we -- in this instance we adjusted

21 the bill, so we wiped out all the late charges.

22 And then we rebilled the account. We didn't

1 charge any late charges on the new bill. We
2 wiped them all out.

3 MR. BROOKS: I don't have any further
4 questions.

5 JUDGE RILEY: Okay. Mr. Schmoldt, I don't
6 think I'm ever going to stop asking you questions
7 about this.

8 MR. BROOKS: Please don't. Not now. I love
9 it. Tear into them.

10 FURTHER EXAMINATION

11 BY

12 JUDGE RILEY:

13 Q. What was the basis upon which -- if you've
14 already testified to this, we're going over old
15 ground, but I just want to make sure I'm clear on
16 it.

17 Upon what basis did Peoples Gas decide
18 that it had underestimated the billings,
19 respondent's billings in the first place?

20 A. Well, basically when we got the meter
21 reading on June 19, based on the meter reading
22 and the previous estimated bill on 5/18, there

1 was a big discrepancy between those two readings.
2 And that's how we determined that we were
3 underestimating the usage.

4 Q. That's the June 19, '01, actual reading,
5 right?

6 A. Right. And then if you look on Line 29,
7 the estimated reading at that time, the meter was
8 reading at 57911. And now we did an actual
9 company reading, and the company reading is
10 8,000. That's a 2,300 cubic foot difference.

11 Q. Right. But the actual reading of 80975,
12 that took place on June 19, '01.

13 A. Right.

14 Q. You've got an estimated reading prior to
15 that that's 80566.

16 A. Right. But that was when we adjusted the
17 bill.

18 Q. So that's when you went back. It's an
19 adjusted estimate is what it is?

20 A. Right.

21 Q. Then --

22 A. The yellow area represents the original

1 estimated bills we sent the customer.

2 Q. Right. And then you've got an adjusted
3 estimate based upon your June 19, '01 reading
4 of 80975?

5 A. Right.

6 Q. Why did you go out and suddenly -- not
7 suddenly -- but why did you go out and read an
8 actual meter on June 19, '01, when for the prior,
9 gosh, I guess two and a half years you've been
10 estimating? What was the cause of the actual
11 reading? Why did you decide suddenly to actually
12 read the meter?

13 A. I mean, because we hadn't read the meter
14 in such a long time. We could have read it prior
15 to that, and they didn't put the -- you know, the
16 meter reading was out of line at that time, and
17 we don't just randomly bill the customer a high
18 reading unless we verify the reading.

19 So we could have read it, like, a couple
20 months before and got a high reading at that time
21 and then said, okay, we've got to make sure that
22 reading is correct because we just don't want to

1 bill a customer an exorbitant amount of money
2 because we got this one reading. We want to
3 verify the reading.

4 Q. But you're not actually sure that that's
5 the case; you're speculating that may have
6 happened?

7 A. Right. And then we did do another reading
8 on July 17 of 2001. And that verified that that
9 reading was correct, and that's on the account.

10 Q. In other words, it was in line with the
11 prior actual reading?

12 A. Right.

13 Q. And then you went back to estimated
14 readings based upon those actual readings; is
15 that correct?

16 A. Right. The August reading would be
17 estimated, and then we would read the meter again
18 in September because it would be on the odd-month
19 cycle that this meter is supposed to be read. So
20 it would be -- one month would be an estimate and
21 then one month is supposed to be a reading.

22 Q. Okay. But then you went back to estimates

1 after 9/19/01, and they were all estimates
2 through -- wait a minute. All right. I'm lost
3 again.

4 You went back to estimates after
5 September 19, '01, through November 20, '01, and
6 that was based upon the actual readings again?

7 A. Right. The estimate would be based on a
8 previous reading and then a degree day analysis
9 of the weather conditions at that time. So they
10 would say --

11 Q. It's getting colder, therefore there's
12 going to be more usage; you're estimating more
13 usage.

14 A. Right.

15 Q. Now, what is that second greed shaded
16 area?

17 A. The second green shaded area is the
18 adjustment that is given to the customer for the
19 unbilled service per 280.

20 Q. That's an adjustment to the customer?

21 A. Right. Because we went 30 months without
22 reading the meter, and 280 says we can only hold

1 the customer for two years of that 30 months. So
2 the other six months are put back the way they
3 were. We can't charge anything additional on
4 those six months prior to the 24.

5 Q. I'm still not understanding. In other
6 words, I can't follow the dates. You go from
7 June -- from December 16, '98, all the way
8 through November 20, '01, which corresponds to
9 the dates in the yellow area?

10 A. Uh-huh.

11 Q. Run through it for me again, Lines 36
12 through 45 in that green area.

13 A. Okay. That would be the adjusted bill
14 that I gave them for the unbilled service. So
15 they had a previous balance of \$20,080 -- I'm
16 sorry -- strike that. \$19,624.38 was their
17 previous balance owed at that time.

18 Q. Right.

19 A. We adjusted their billing, so it would be
20 the net bills minus the credits which leaves them
21 a total balance of \$12,902.01. So that would
22 their new adjusted bill, \$12,902.01. So we took

1 \$7,000 off the bill for them at that time.

2 Q. And is that \$7,000 reflected anywhere on

3 the sheet?

4 A. Well, you would have to take, like, the

5 net bill and add it to the previous balance and

6 then subtract the credits.

7 Q. So it's a formula, but it's in there?

8 A. Right, right.

9 Q. Okay. So it is reflected?

10 A. Yes.

11 Q. Okay. So it would be, like, 39,6 minus

12 26,8?

13 A. Right.

14 Q. Sure. Okay.

15 A. Then the difference would be the

16 adjustment.

17 Q. Now, Lines 37 --

18 A. Through 45. That's the adjusted --

19 because Line 36 actually -- it would be actually

20 -- Line 36 should be actually like Line 46. But

21 what we're doing is we're showing how we got to

22 the adjusted portion of the bill. So we're

1 showing the adjustments, how we got to that
2 adjustment. So we're saying we're reinstating
3 the bill from December to April and then April,
4 May; May June. And then you see on Line 40 --

5 Q. That's the spike.

6 A. Right. And there's the spike for the
7 adjusted period and then the additional bills
8 again. We're basically putting the bills back
9 the way they were, you know, the June bill --

10 Q. And that was based upon that actual
11 reading of June 19, '01?

12 A. Right.

13 Q. When you realized that there had been
14 apparently a gross underestimate?

15 A. Right.

16 Q. You were only billing, you felt, about 55
17 or 60 percent of the actual usage then. Okay.

18 So that's all that 37 through 45
19 reflects?

20 A. Yes.

21 Q. Okay. And these are just the meter
22 readings?

1 A. Yes.

2 JUDGE RILEY: Okay. Any redirect?

3 MR. McCARTHY: Yeah, a few things.

4 REDIRECT EXAMINATION

5 BY

6 MR. McCARTHY:

7 Q. Going to the points that you were just

8 bringing up.

9 Brian, it's a little confusing from this

10 document, I think, because it's a difficult

11 concept to get. But a lot of the bills on

12 Respondent's Exhibit 1 have been eliminated,

13 haven't they?

14 A. Yes.

15 Q. And does that include the first adjustment

16 you did, the first green line?

17 A. Yes.

18 Q. So you did an adjustment and you did it

19 for more than the two-year period -- not you, but

20 somebody did an adjustment for more than the

21 two-year period?

22 A. Yes.

1 Q. And then Peoples Gas went back in the
2 second green area and corrected that first
3 adjustment basically?

4 A. Correct.

5 Q. So, Mr. Schmoltdt, the active bills -- and
6 by active bills I mean bills that add up to the
7 balance that is owed now, are they shown on Lines
8 36 through 56?

9 A. Yes.

10 Q. Everything north of that -- in other
11 words, everything above that through this process
12 has been cancelled?

13 A. Correct.

14 Q. Except -- I should step back.

15 There's also some bills at the very
16 beginning of the account that were also not
17 cancelled; isn't that right?

18 A. Right.

19 Q. The white lines, 1, 2 and 3?

20 A. Correct. Because that was an actual meter
21 reading at that time, Line 3, so we didn't wipe
22 out the actual meter reading bill.

1 Q. Now, as to the issue you talked before
2 about, estimated readings, and said we didn't do
3 any reading here, can you surmise as to some of
4 the reasons why this meter might not have been
5 read?

6 A. That would be just a guess because I don't
7 know exactly what happened at that time. The
8 person of record -- the service -- the meter
9 reader at that time maybe got sick so they
10 wouldn't send somebody out in that area to read
11 the meter. So everybody in that area would get
12 an estimated bill.

13 Or if the meter reader goes before
14 anybody is at the church, if they get there,
15 like, earlier than anybody is at the church, they
16 could be going to the stop earlier than normal.
17 And maybe the Ballards aren't there until 10:00
18 o'clock or somebody is not at the premises until
19 10:00 o'clock. So we're actually showing up at
20 8:00 o'clock. So we're showing up before anybody
21 is at the premise and, of course, we're not
22 getting in at that time to read the meter.

1 Q. Is the meter indoors here?

2 A. Yes.

3 Q. And now, Brian, going back to that, if

4 this place is not -- if there aren't people

5 occupying this place much of the week, would that

6 tend to increase the probability that you would

7 get -- you wouldn't be able to get a meter

8 reading?

9 A. Yes. If the meter reading falls at a time

10 when they're not there, yes.

11 Q. So somebody has to be there to let them in

12 to read it if it's inside?

13 A. Yes.

14 Q. Until they put that other device on, the

15 automated reading device?

16 A. Correct.

17 Q. Now, it can read every month --

18 A. Every month.

19 Q. -- because it beams it out through the

20 wall?

21 A. Correct.

22 Q. Okay. I want to clarify something you

1 brought up. You were speaking with Mr. -- well,
2 the attorney for the complainant, and you stated
3 that there are no late charges on the account.

4 A. On Line 30.

5 Q. On Line 30. Right.

6 Have late charges accrued at any time
7 that are still active? In other words, are we
8 seeking -- of the bill that we're seeking, are
9 there any late charges in there?

10 A. Yes.

11 Q. And where do they show on this document?

12 A. From basically Line 46 to Line 56 would be
13 late charges.

14 Q. And what column?

15 A. The late charges column would be column --
16 Column 7.

17 JUDGE RILEY: It's under the heading of Late
18 Charges.

19 THE WITNESS: It's under the heading of Late
20 Charges, yes.

21 MR. MCCARTHY: Q And this was another point:
22 You were asked on cross at various times, I

1 think, that why did Peoples Gas suddenly come out
2 and send a very large bill; isn't that right?

3 A. Yes.

4 Q. And you stated that because we had gone a
5 long time with estimated readings and we got an
6 actual reading, that made us realize that we had
7 been underbilling; isn't that right?

8 A. Yes.

9 Q. And that actual reading occurred on 6/19
10 of 2001?

11 A. Correct.

12 Q. And just prior to that -- well, that
13 actual reading was 80975, right?

14 A. Yes.

15 Q. The most recent estimated reading -- well,
16 5/18, 2001, the reading on Line 29, what was that
17 reading?

18 A. That was an estimated reading.

19 Q. Yes. And what was the amount of that
20 reading?

21 A. 57911, 57911.

22 Q. So would it be fair to say that when our

1 meter reader went out there and got a reading of
2 80975, we realized that we had underbilled the
3 customer approximately 23 -- 30,000 MRD; is that
4 right?

5 A. No. It would actually be, like, 23,000
6 MRD.

7 Q. I'm sorry. Yes. Right, right, over that
8 entire period. In addition -- okay.

9 So it was 23,000 MRD that we underbilled
10 over that entire period?

11 A. Yes.

12 JUDGE RILEY: Tell me one last time why on
13 June 19, '01, was there an actual reading after
14 all of the estimates.

15 THE WITNESS: Well, you know, either we got in
16 at that time, somebody was available to let us in
17 or there could have been a meter reading
18 appointment.

19 JUDGE RILEY: Okay. So it's your testimony
20 that there may have been other actual readings
21 prior to then?

22 THE WITNESS: There's a possibility, yes.

1 JUDGE RILEY: And those actual readings were
2 not recorded simply because they were so far out
3 of line with the estimates?

4 THE WITNESS: They could have been. Usually
5 unbilled readings we can see, but if nobody puts
6 -- you know, if something happens to the reading,
7 we don't know what happens to it. It could get
8 lost in the system or whatever.

9 But we try to get -- as long as we get a
10 reading, we try to make sure that that reading is
11 in line with other readings. And if we're going
12 to bill the customer more, we want to verify that
13 reading again to make sure that that reading was
14 correct, that the meter reader didn't misread the
15 meter.

16 JUDGE RILEY: But as you sit here, you're not
17 sure why there was suddenly an actual reading on
18 June 19, '01, after 30 months of estimates?

19 THE WITNESS: Right. I can't say exactly why
20 they read it that day.

21 JUDGE RILEY: And is it customary to go
22 30 months estimating a reading at an address, at

1 any particular address?

2 THE WITNESS: No.

3 JUDGE RILEY: In other words, 30 months is

4 unusual?

5 THE WITNESS: Yes.

6 JUDGE RILEY: So we don't have an explanation

7 as we sit here why there was 30 months of

8 estimated readings; we can only speculate; is

9 that correct?

10 THE WITNESS: Correct.

11 JUDGE RILEY: Okay.

12 MR. McCARTHY: If I may, based on those

13 questions, did Peoples Gas, in effect, lose money

14 as a result of the fact that it went more than 24

15 months without -- with estimated readings in this

16 case?

17 THE WITNESS: We could have, yes.

18 JUDGE RILEY: I'm sorry. Counsel, do you have

19 any recross?

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22

1 RECROSS EXAMINATION

2 BY

3 MR. BROOKS:

4 Q. 30 months is unusual; is that correct?

5 A. Yes.

6 MR. BROOKS: I don't have any further

7 questions.

8 JUDGE RILEY: Okay. Now, the procedure at

9 this point -- we dealt with all the exhibits,

10 haven't we?

11 MR. MCCARTHY: Yes.

12 JUDGE RILEY: All right. The procedure at

13 this point is to set a schedule for briefing and

14 a proposed order or I should say briefing because

15 I can't issue the proposed order until I get the

16 briefs. And we are at the --

17 THE WITNESS: Today is the 14th.

18 JUDGE RILEY: The 14th.

19 Do the parties want to submit

20 simultaneous briefs on this matter?

21 MR. MCCARTHY: That's fine.

22 MR. BROOKS: That's fine with me.

1 JUDGE RILEY: Okay. How much time do you
2 think you're going to need taking into account
3 Thanksgiving?
4 MR. McCARTHY: Let's go to January.
5 JUDGE RILEY: January?
6 MR. McCARTHY: Wait. I'm sorry. Well,
7 because we're going to have Thanksgiving, and
8 then we're going to have the Christmas holidays.
9 I don't know how you feel.
10 MR. BROOKS: Yeah.
11 JUDGE RILEY: You're going to really need that
12 long?
13 MR. McCARTHY: Well, we can go mid December.
14 MR. BROOKS: I have no objection to that.
15 JUDGE RILEY: What I was going to say is why
16 don't you get the briefs to me by Friday,
17 December 20?
18 MR. McCARTHY: Okay.
19 JUDGE RILEY: That's gives you better than a
20 month. That's five weeks.
21 MR. McCARTHY: Okay.
22 JUDGE RILEY: And I wouldn't look for a

1 proposed order the following week.

2 Okay. So the parties have agreed to
3 submit simultaneous briefs by the close of
4 business on December 20.

5 And is there anything else that -- if
6 either party wants to submit a proposed order to
7 me with the brief, that will be accepted. I'll
8 certainly consider it, but it won't be binding
9 because I'll still be in the decision-making
10 process at that point certainly. But we don't
11 have to do anything else other than the briefs
12 then, do we, at this point?

13 MR. MCCARTHY: No, I don't think so.

14 JUDGE RILEY: All right. I should ask, have
15 both parties submitted all of the -- called all
16 of the witnesses they intend to call?

17 MR. BROOKS: Yes.

18 MR. MCCARTHY: (Nodding head up and down.)

19 JUDGE RILEY: All right. Is there anything
20 further?

21 All right. Then I am going to direct
22 the court reporter to mark this matter heard and

1 taken.

2 HEARD AND TAKEN.

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